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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JANE FIELY, :
: Plaintiff, : Case No: 3:13-CV-02005
v. :
: ESSEX HEALTHCARE : Judge Carr
CORPORATION, et al., :
: Defendants. :
:
- - -

VIDEO RECORDED DEPOSITION OF JANE E. FIELY

- - -

Date taken: Tuesday, August 12, 2014

Time: 9:07 a.m.

Location: SeaGate Reporting Service, Inc.
405 Madison Avenue, Suite 900
Toledo, Ohio 43604

Reporter: Linda J. Billau, RPR

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I N D E X

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1 APPEARANCES:

2 On behalf of the Plaintiff:

3 WIDMAN & FRANKLIN, LLC:
4 John D. Franklin
Kera L. Paoff
5 405 Madison Avenue, Suite 1550
Toledo, Ohio 43604 (419)243-9005

6 On behalf of the Defendants:

7 FAEGRE, BAKER & DANIELS, LLP:
Brian R. Garrison
8 300 North Meridian Street, Suite 2700
Indianapolis, Indiana 46204 (317)237-0300

10 Also Present: Susan Kreuser
Barry Derossett
11 Jeremy Allen, Videographer

12 - - - 09:06:18

13 JANE E. FIELY, 09:06:18

14 being first duly sworn, as hereinafter certified, 09:06:18

15 testified and said as follows: 09:06:18

16 EXAMINATION 09:06:18

17 BY MR. GARRISON: 09:07:04

18 Q Would you please state your full name for the 09:07:04
19 record. 09:07:05

20 A Jane Elizabeth Fiely. 09:07:06

21 Q Have you ever been known by any other names? 09:07:09

22 A My maiden was Severt. 09:07:11

23 Q Ms. Fiely, my name is Brian Garrison. I am an 09:07:13
24 attorney for Atrium Living Centers and Essex 09:07:13
25 Healthcare which operates St. Mary's Living Center. 09:07:18

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1 I'll refer to all those as -- just as St. Mary's 09:07:21
2 today. 09:07:24

3 A Okay. 09:07:25

4 Q I'll ask you questions for the purpose of learning 09:07:25
5 about the claims and the lawsuit that you've 09:07:28
6 brought against St. Mary's. 09:07:30

7 Have you ever had your deposition taken 09:07:32
8 before? 09:07:33

9 A Many years ago when I first started at St. Mary's. 09:07:35

10 Q And when was that? 09:07:39

11 A 2005. 09:07:41

12 Q And what was -- 09:07:43

13 A February. 09:07:43

14 Q Do you recall the name of that case? 09:07:44

15 A (Indicating.) 09:07:44

16 Q Do you recall the parties that were involved? 09:07:48

17 A No. 09:07:50

18 Q Do you know what court it was in? 09:07:51

19 A (Indicating.) 09:07:53

20 Q Were you a party to that case? 09:07:54

21 A I had just -- I was a brand new Director of Nursing 09:07:57
22 at that time and I was there possibly ten days when 09:08:02
23 a resident from the assisted living exited the 09:08:06
24 front door and was found in the parking lot with a 09:08:10
25 fractured hip. 09:08:13

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1 Q And so you were deposed as a witness in that case? 09:08:14
2 A Uh-huh. 09:08:18
3 Q Were you deposed at any other time? 09:08:18
4 A No. 09:08:20
5 Q You're understand you're testifying under oath here 09:08:20
6 today? 09:08:23
7 A Yes. 09:08:23
8 Q What do you understand that to mean? 09:08:23
9 A Please? 09:08:25
10 Q What do you understand that to mean? 09:08:25
11 A To tell the truth. 09:08:27
12 Q You understand there may be criminal penalties if 09:08:28
13 you do not tell the truth? 09:08:32
14 A Yes. 09:08:33
15 Q So just to go over the procedure briefly, it's a 09:08:34
16 question-and-answer format. As you can see, you're 09:08:37
17 being recorded on videotape as well as a written 09:08:40
18 transcript. If you need a break at any time, just 09:08:42
19 please say so. We can take a break at any time 09:08:45
20 except if there's a question of mine that's 09:08:49
21 pending. 09:08:53
22 A Okay. 09:08:53
23 Q For the benefit of the court reporter, please make 09:08:54
24 sure you make a verbal response to any of my 09:08:56
25 questions rather than shaking your head yes or no. 09:08:59

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1 It's important that we speak one at a time or else 09:09:02
2 the court reporter is going to get frustrated with 09:09:05
3 us. 09:09:07
4 A Okay. 09:09:07
5 Q And that's the last thing we want. If you don't 09:09:08
6 hear a question, will you ask me to repeat it? 09:09:10
7 A Yes, I will. 09:09:12
8 Q And if you don't understand a question, will you 09:09:13
9 tell me so I can clarify it or -- 09:09:15
10 A Yes, I will. 09:09:16
11 Q Ms. Fiely, so that's one of the examples of where 09:09:17
12 I need to finish my question before you respond. 09:09:19
13 A Okay. 09:09:22
14 Q So if I -- if you don't understand a question, will 09:09:22
15 you tell me so I can clarify it or rephrase it? 09:09:24
16 A Yes, I will. 09:09:27
17 Q And if you need to take a break, will you let me 09:09:27
18 know? 09:09:31
19 A Yes, I will. 09:09:31
20 Q If you want to supplement or change an answer that 09:09:32
21 you've given during the deposition, will you let me 09:09:36
22 know? 09:09:39
23 A Yes, I will. 09:09:39
24 Q And do you understand these instructions and ground 09:09:40
25 rules? 09:09:43

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1 A Yes. 09:09:43
2 Q And do you have any questions about those? 09:09:43
3 A No. 09:09:44
4 Q You agree to follow those instructions and ground 09:09:45
5 rules? 09:09:49
6 A Yes, I will. 09:09:49
7 Q Is anything affecting your ability to hear my 09:09:49
8 questions? 09:09:53
9 A No. 09:09:54
10 Q Do you have any medical condition that would 09:09:54
11 interfere with your ability to hear my questions, 09:09:55
12 respond to them, and answer them truthfully? 09:09:59
13 A No. 09:10:02
14 Q Are you currently under the influence of any 09:10:03
15 alcohol, drug, or medication that would interfere 09:10:05
16 with your ability to hear my questions, understand 09:10:08
17 them, and respond to them truthfully? 09:10:10
18 A No. 09:10:12
19 Q Did you do anything to prepare for the deposition 09:10:12
20 today? 09:10:14
21 A As? 09:10:16
22 Q My question is to you, did you do anything to 09:10:22
23 prepare for the deposition today? 09:10:25
24 A Yes. 09:10:26
25 Q What did you do? 09:10:26

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1 A I reviewed the documents that were e-mailed to me. 09:10:28
2 Q What documents did you review? 09:10:31
3 A The ones that you people have sent to us. 09:10:33
4 Q And how many documents did you review? 09:10:36
5 A It was almost 300. 09:10:38
6 Q And those were the ones that were produced by 09:10:44
7 St. Mary's? 09:10:46
8 A That were what? 09:10:47
9 Q Produced to your lawyers by St. Mary's. 09:10:49
10 A Yes. Yes, sir. 09:10:51
11 Q Did you meet with your Counsel? 09:10:52
12 A Yes. 09:10:59
13 Q I don't want to know what you talked about with 09:11:00
14 your Counsel, but when did you meet with your 09:11:04
15 Counsel? 09:11:06
16 A Yesterday. 09:11:06
17 Q And for how long did you meet? 09:11:06
18 A Hour and a half. 09:11:08
19 Q And where did you meet? 09:11:10
20 A In his office. 09:11:11
21 Q Other than meeting with your Counsel and reviewing 09:11:12
22 the documents, did you prepare for your deposition 09:11:16
23 by discussing that -- the facts that form the basis 09:11:18
24 for your lawsuit with anyone else? 09:11:21
25 A No. 09:11:24

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1 Q I'd like to talk now a little bit about your 09:11:24
2 personal background. Could you tell me your date 09:11:34
3 of birth? 09:11:36
4 A February 24th, 1950. 09:11:36
5 Q And where were you born? 09:11:40
6 A Celina, Ohio. 09:11:42
7 Q What's your current address? 09:11:43
8 A 3192 State Route 219, Coldwater, Ohio. 09:11:45
9 Q Is that a house or an apartment? 09:11:50
10 A It's a house. 09:11:52
11 Q And do you own it or rent it? 09:11:52
12 A We own it. 09:11:55
13 Q How long have you lived there? 09:11:56
14 A Two of us. 09:11:58
15 Q How long have you lived there? 09:11:58
16 A Thirty years. 09:11:59
17 Q And you said two of you live there. Who lives 09:12:00
18 there with you? 09:12:03
19 A My spouse. 09:12:04
20 Q What's your spouse's name? 09:12:07
21 A Lavern. 09:12:09
22 Q Is he employed? 09:12:10
23 A Yes, he is. 09:12:10
24 Q Where? 09:12:12
25 A Van's in St. Mary's, Ohio. 09:12:12

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1 Q How long have you been married to Mr. Fiely? 09:12:15
2 A Forty-four years. 09:12:19
3 Q Were you married at any time before your current 09:12:21
4 marriage? 09:12:24
5 A No. 09:12:24
6 Q Do you have any children? 09:12:25
7 A Five. 09:12:26
8 Q And what are their names and ages? 09:12:27
9 A Amy is 43; Christopher is 39; Jennifer is 39; Dave 09:12:30
10 is 34; Doug is 33. 09:12:38
11 Q Are all five your biological children? 09:12:41
12 A Yes. 09:12:44
13 Q Do you have any grandchildren? 09:12:44
14 A Ten. 09:12:45
15 Q Congratulations. 09:12:47
16 A Thank you. 09:12:49
17 Q Where did you go to high school? 09:12:50
18 A Coldwater High School. 09:12:53
19 Q Would you like a glass of water? 09:12:55
20 A Yes, please. 09:12:57
21 Q All right. We'll both be doing a lot of talking so 09:13:07
22 it's always helpful. 09:13:09
23 A Thank you. Thank you. 09:13:10
24 Q You said you went to Coldwater High School? 09:13:21
25 A Yes. 09:13:24

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1	Q	Did you graduate?	09:13:24
2	A	Yes, I did.	09:13:25
3	Q	When?	09:13:26
4	A	1968.	09:13:26
5	Q	And did you attend college or have any other post	09:13:28
6		high school education?	09:13:31
7	A	Yes, I did. I went to Indiana Vocational Technical	09:13:32
8		College and got my LPN. I returned to school and	09:13:36
9		got my RN at Rhodes State College in Lima, Ohio.	09:13:40
10	Q	And when did you attend -- or, I'm sorry, let me	09:13:44
11		rephrase that. When did you receive degrees from	09:13:48
12		each of those schools?	09:13:51
13	A	1984 for my LPN and 1989 for my RN.	09:13:53
14	Q	Do you have any other postgraduate schooling or	09:13:58
15		training?	09:14:01
16	A	I attended Wright State pursuing a business degree,	09:14:02
17		but did not finish.	09:14:07
18	Q	Any other postgraduate, post high school?	09:14:09
19	A	No.	09:14:12
20	Q	Have you ever filed a charge of discrimination	09:14:12
21		against any person or entity?	09:14:17
22	A	No, I did not.	09:14:18
23	Q	Have you ever filed a lawsuit in either state or	09:14:19
24		federal court against an entity other than	09:14:21
25		St. Mary's?	09:14:23

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1 A No, I did not. 09:14:24

2 Q Have you ever been a party to a lawsuit other than 09:14:25
3 this one? 09:14:28

4 A No. 09:14:29

5 Q And have you ever received any type of monetary 09:14:29
6 employment from a prior employer relating to any 09:14:33
7 employment-related complaint or issue? 09:14:36

8 A No. 09:14:38

9 Q Have you -- other than the proceeding we spoke 09:14:38
10 about with which you -- in which you were deposed, 09:14:46
11 have you ever been involved in any other legal 09:14:49
12 proceeding as a witness? 09:14:51

13 A No. 09:14:54

14 Q Have you ever been arrested? 09:14:55

15 A No -- well, for speeding. 09:14:58

16 Q Arrested for anything else? 09:15:03

17 A No. 09:15:04

18 Q And were you ever charged with a crime? 09:15:05

19 A No. 09:15:09

20 Q Were you actually taken into custody as a result of 09:15:09
21 speeding? 09:15:13

22 A No. 09:15:14

23 Q You were just issued a ticket? 09:15:14

24 A Uh-huh. Yes. 09:15:16

25 Q How was that resolved? 09:15:17

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1 A How was that resolved? 09:15:20
2 Q Yeah. 09:15:21
3 A I paid the fine. 09:15:22
4 Q Since you left St. Mary's, have you talked with any 09:15:23
5 St. Mary's employees or former employees about any 09:15:29
6 of your claims in this lawsuit? 09:15:32
7 A No. 09:15:33
8 Q Have you had any discussions with any other 09:15:34
9 individuals about your claims in this lawsuit? 09:15:51
10 A My spouse. 09:15:54
11 Q Anyone else? 09:15:56
12 A My daughter. 09:15:58
13 Q Anyone else? 09:16:03
14 A No. 09:16:05
15 Q Tell us about your conversations with your spouse 09:16:09
16 about this lawsuit. 09:16:12
17 A I just talked to him about I thought it was unfair. 09:16:13
18 Q What did you -- you said it was unfair. What was 09:16:23
19 unfair? 09:16:26
20 A That I was terminated in the process that happened. 09:16:27
21 Q Did you tell him why you thought it was unfair? 09:16:41
22 A Because I don't think I had a chance really to 09:16:46
23 explain my end of what happened. 09:16:49
24 Q Have you told him anything else about why you 09:16:53
25 thought it was unfair? 09:16:55

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1 A Because Lorraine had called me two weeks prior and 09:16:57
2 asked me about a -- she had a good retirement 09:17:04
3 package. She called me at home. 09:17:08

4 Q Okay. We'll get into that. I know you've made 09:17:13
5 that same complaint -- allegation in your 09:17:17
6 Complaint. We'll get into that here in a little 09:17:17
7 bit. 09:17:19

8 MR. FRANKLIN: Well, if that forms 09:17:19
9 the basis of what she told her husband as 09:17:21
10 to why it was unfair, I think she's 09:17:23
11 allowed to answer the question, unless you 09:17:24
12 don't want her to give complete answers, 09:17:26
13 then we can just move on. 09:17:28

14 MR. GARRISON: Is that an objection? 09:17:30

15 MR. FRANKLIN: Yeah, that's an 09:17:31
16 objection that has to be cured at this 09:17:32
17 point. 09:17:35

18 MR. GARRISON: Well, it's noted. 09:17:35
19 I'm going to continue with my questions. 09:17:35

20 MR. FRANKLIN: I'm just wondering if 09:17:35
21 you want her to just give partial answers. 09:17:36

22 MR. GARRISON: Your objection is 09:17:38
23 noted, to the extent there was an 09:17:39
24 objection. I'll continue with my 09:17:41
25 questions. 09:17:42

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1 MR. FRANKLIN: And I'll continue 09:17:44
2 with my objections. 09:17:45
3 MR. GARRISON: Thank you. 09:17:47
4 Q Did you tell your daughter anything different about 09:17:47
5 this case than you told your spouse? 09:17:49
6 A No. 09:17:51
7 Q Let's talk now about the jobs you had before you 09:17:51
8 started working at St. Mary's. Let's talk first 09:17:58
9 about the job you had immediately before you 09:18:02
10 started at St. Mary's. Where did you work? 09:18:05
11 A Heritage Manor in Minster, Ohio. 09:18:07
12 Q And when did you work there? 09:18:11
13 A May 2004 through February 2005 prior -- well, 09:18:13
14 30-day notice and then I went to St. Mary's Living 09:18:22
15 Center. 09:18:24
16 Q And what was your position there? 09:18:25
17 A Director of Nursing. 09:18:26
18 Q Who was your immediate supervisor in that position? 09:18:28
19 A Jolynda Timmerman. 09:18:30
20 Q And what was her position? 09:18:32
21 A Administrator. 09:18:34
22 Q How did that employment end? 09:18:39
23 A I gave my four-weeks notice and went to St. Mary's 09:18:41
24 Living Center. 09:18:47
25 Q Where did you work before Heritage Manor? 09:18:48

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1 A Chalet Village in Berne, Indiana. 09:18:52
2 Q How long did you work there? 09:18:58
3 A Three years. I was first hired as a Staff 09:19:00
4 Development Coordinator and then the Regional Nurse 09:19:04
5 asked me to be the Director of Nursing. 09:19:08
6 Q And so what were the dates of your employment? 09:19:09
7 When did it start and when did it end? 09:19:12
8 A 2001 to 2004. 09:19:14
9 Q And how did that employment end? 09:19:24
10 A I gave my notice and went to Heritage Manor. 09:19:30
11 Q You resigned voluntarily? 09:19:35
12 A Yes. 09:19:38
13 Q Were you self-employed for any period of time 09:19:38
14 before you worked at St. Mary's? 09:19:42
15 A No, because I immediately went from Heritage to 09:19:44
16 St. Mary's. 09:19:47
17 Q Did you before -- at any time before you worked at 09:19:49
18 St. Mary's, did you ever hold two jobs at once? 09:19:51
19 A Yes, when I worked at Laurels of Shane Hill as a 09:19:54
20 stock -- or a unit manager, I also worked at the 09:20:01
21 hospital in Coldwater p.r.n., weekends I did. 09:20:03
22 Q And what were the dates that you held those two 09:20:07
23 jobs? 09:20:10
24 A Probably about 2000 to 2001 when I went to Chalet. 09:20:16
25 Q During the time you worked at St. Mary's, did you 09:20:33

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1 ever hold a second job? 09:20:35
2 A No. 09:20:36
3 Q Were you ever self-employed during the time you -- 09:20:37
4 A No. 09:20:37
5 Q -- worked at St. Mary's? 09:20:42
6 A No. 09:20:42
7 Q Again, just make sure I finish my question. 09:20:42
8 Thanks. When were you first hired at St. Mary's? 09:20:44
9 A My start date was February 16, 2005. 09:20:54
10 Q And how is it you came to work at St. Mary's? 09:21:00
11 A They call them headhunters, had called me from 09:21:04
12 December through January and I kept saying no and 09:21:09
13 he kept offering me more benefits or money, and I 09:21:12
14 had an interview with Pam and Jason Reese, and 09:21:16
15 that's when I took the job. 09:21:25
16 Q When was that interview? 09:21:26
17 A In probably January of 2005. 09:21:27
18 Q And you mentioned Pam. What was Pam's last name? 09:21:37
19 A Nichols at that time; it is Reese now. 09:21:42
20 Q And what were their positions at the time they 09:21:44
21 interviewed you? 09:21:47
22 A I think Jason was CO and Pam was the head nurse of 09:21:47
23 the company. 09:22:00
24 Q Do you know who made the decision to hire you? 09:22:00
25 A They did. 09:22:04

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1 Q How do you know that? 09:22:08
2 A Because they offered me a position that day. 09:22:09
3 Q And how did you respond to that? 09:22:18
4 A I accepted. 09:22:20
5 (Defendants' Exhibit A marked.) 09:22:47
6 Q Ms. Fiely, I've handed you what's been marked as 09:22:47
7 Defendants' Exhibit 1 -- A, I'm sorry. Do you 09:22:51
8 recognize that? 09:22:56
9 A Yes. 09:22:57
10 MR. FRANKLIN: Look at both pages, 09:23:03
11 please. 09:23:06
12 Q After now having looked at it, do you recognize 09:23:21
13 that? 09:23:24
14 A Yes. 09:23:24
15 Q What is that? 09:23:24
16 A It's a contract that I signed that said I would 09:23:25
17 work for a set amount of money and how I would get 09:23:31
18 paid biweekly and my paid time off accrued. 09:23:36
19 Q Is this your signature on the second page? 09:23:41
20 A Yes. 09:23:43
21 Q Meaning you signed that a week after the letter was 09:23:44
22 sent to you, it looks like? 09:23:49
23 A Uh-huh. 09:23:50
24 Q January 24th? 09:23:50
25 A Yes. 09:23:52

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1 Q And had you had any -- this was -- looks like it's 09:23:52
2 signed by an individual named Matt Russelburg -- 09:23:58
3 A Yes. 09:23:58
4 Q -- correct? 09:24:00
5 A Yes. 09:24:00
6 Q Had you had any discussions with Mr. Russelburg 09:24:01
7 before you received this letter? 09:24:05
8 A Not since that day when I met with him in -- at the 09:24:06
9 building and I accepted, and then he sent me this 09:24:10
10 and I signed it. 09:24:13
11 Q So what discussions did you have with 09:24:14
12 Mr. Russelburg before you received this letter? 09:24:16
13 A None. 09:24:18
14 Q You received this letter from Mr. Russelburg 09:24:20
15 without ever having talked -- spoken with him 09:24:24
16 before? 09:24:26
17 A I spoke with him at the building when I was 09:24:26
18 interviewed. 09:24:28
19 Q And that was the same day you spoke with -- 09:24:28
20 A Yes. 09:24:28
21 Q -- Jason and Pam? 09:24:30
22 A Yes. They were at the building that day because we 09:24:31
23 had an ice storm and they had come down because 09:24:34
24 they had trouble with the generator. So they were 09:24:37
25 all at the building that day. 09:24:46

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1 Q When you started at St. Mary's, did you receive any 09:24:48
2 training? 09:24:50
3 A Yes. I had to go to -- around Cleveland for a day 09:24:52
4 with Pam, review their policies. 09:24:59
5 Q And who trained you? 09:25:05
6 A Pam. 09:25:06
7 Q And what did that training cover? 09:25:07
8 A It was one day and it was policies. 09:25:09
9 Q What type of policies? 09:25:16
10 A Policies of the company. 09:25:19
11 (Defendants' Exhibit B marked.) 09:25:50
12 Q Ms. Fiely, you've been handed Defendants' 09:25:50
13 Exhibit B? 09:25:54
14 A Yes. 09:25:54
15 Q Do you recognize this document? 09:25:55
16 A Yes. 09:25:57
17 Q What is it? 09:25:57
18 A It's the orientation checkoff list that Matt 09:25:58
19 Russelburg signed. 09:26:05
20 Q Is that your signature as well? 09:26:05
21 A Yes. 09:26:07
22 Q And you mentioned Matt Russelburg signed it as 09:26:07
23 well? 09:26:12
24 A Yes. 09:26:12
25 Q Where did he sign it? 09:26:13

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1 A Trainer signature. 09:26:14
2 Q So you mentioned you went to Cleveland with Pam for 09:26:16
3 a day. Were you also trained by Mr. Russelburg? 09:26:18
4 A Yes. 09:26:21
5 Q When did that occur in relation to your training 09:26:21
6 with Pam? 09:26:25
7 A This occurred first. 09:26:27
8 Q Your training with Mr. Russelburg? 09:26:29
9 A As of 16th, that's my date of hire. 09:26:31
10 Q And is this an accurate depiction where your 09:26:35
11 signatures are placed of the items Mr. Russelburg 09:26:40
12 reviewed with you? 09:26:44
13 A Yes. 09:26:45
14 Q Did Pam cover different or similar things to what 09:26:46
15 Mr. Russelburg did? 09:26:51
16 A Different. 09:26:52
17 Q In what way? 09:26:53
18 A The DON responsibilities and the DON's knowledge of 09:26:54
19 the policies. 09:27:02
20 Q What specific policies are you talking about? 09:27:02
21 A Regarding the standards of care, the fall program, 09:27:06
22 the weight program, the wounds, of that nature. 09:27:16
23 Q So Pam reviewed with you policies that applied to 09:27:27
24 St. Mary's residents? 09:27:31
25 A Right, and the policies that were on the DON's 09:27:34

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		Page 23
1	knowledge.	09:27:38
2	Q And how about policies that applied to you as an	09:27:39
3	employee, did Pam cover any of those?	09:27:42
4	A No. That's what Matt did.	09:27:44
5	Q Okay. During the time you worked at St. Mary's,	09:27:46
6	did you receive employment policies or handbooks?	09:28:02
7	A Yes.	09:28:04
8	Q Did you receive supplements to those during your	09:28:05
9	employment?	09:28:09
10	A Yes.	09:28:09
11	(Defendants' Exhibit C marked.)	09:28:32
12	Q Ms. Fiely, you've been handed what's been marked as	09:28:32
13	Defendants' Exhibit C. Do you recognize that?	09:28:34
14	A Yes.	09:28:36
15	Q What is that?	09:28:36
16	A The discipline process.	09:28:37
17	Q And just -- is this your signature as having --	09:28:43
18	signed as having received that?	09:28:45
19	A No.	09:28:47
20	Q Is that someone else's signature that you can	09:28:47
21	recognize?	09:28:51
22	A I cannot recognize it.	09:28:51
23	Q Were you given the discipline process when you were	09:28:53
24	employed at St. Mary's?	09:28:57
25	A Yes, and then it was updated, and I don't see an	09:29:00

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1 update paper. Throughout the eight years I was 09:29:05
2 there, there was an update. 09:29:09
3 (Defendants' Exhibit D marked.) 09:29:38
4 Q Ms. Fiely, now you've been handed what's been 09:29:38
5 marked as Defendants' Exhibit D. Do you recognize 09:29:41
6 that? 09:29:42
7 A Yes. 09:29:43
8 Q What is it? 09:29:44
9 A The corporate compliance out of the handbook, the 09:29:45
10 corporate compliance handbook. 09:29:52
11 Q Is that your signature on the bottom of the 09:29:55
12 document? 09:29:56
13 A Yes. 09:29:56
14 Q Do you recall actually receiving the employee 09:29:56
15 handbook at the time you signed this document? 09:30:00
16 A Yes. 09:30:02
17 Q As well as the corporate compliance documentation? 09:30:02
18 A Yes. 09:30:05
19 (Defendants' Exhibit E marked.) 09:30:31
20 Q Ms. Fiely, now you've been handed what's been 09:30:31
21 marked as Defendants' Exhibit E. Do you recognize 09:30:34
22 that? 09:30:36
23 A Yes. 09:30:36
24 Q What is that? 09:30:36
25 A The equal employment opportunity. 09:30:37

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1 Q Did you receive a copy of this when you were 09:30:41
2 employed at St. Mary's? 09:30:43
3 A Yes. 09:30:45
4 (Defendants' Exhibit F marked.) 09:31:20
5 Q Ms. Fiely, now you've been handed what's been 09:31:20
6 marked as Defendants' Exhibit -- is it F? Do you 09:31:24
7 recognize that? 09:31:25
8 A Yes. 09:31:26
9 Q What is it? 09:31:26
10 A It's the policy from Atrium regarding their FMLA 09:31:28
11 leave of absence. 09:31:35
12 Q How do you recognize that? 09:31:36
13 A I've seen it many times. 09:31:37
14 Q You were provided this during your employment at 09:31:39
15 St. Mary's? 09:31:44
16 A Yes. 09:31:46
17 (Defendants' Exhibit G marked.) 09:32:18
18 Q Ms. Fiely, now you've been handed what's been 09:32:18
19 marked as Defendants' Exhibit G. Do you recognize 09:32:21
20 that? 09:32:23
21 A Yes. 09:32:24
22 Q What is it? 09:32:24
23 A It's another policy from Atrium Living Centers 09:32:25
24 regarding their Family -- FMLA Absence Act and 09:32:33
25 Military Family Leave. 09:32:36

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1 Q How do you recognize that? 09:32:37
2 A I've seen it before. 09:32:39
3 Q Was it provided to you during your employment at 09:32:41
4 St. Mary's? 09:32:43
5 A Yes. 09:32:44
6 (Defendants' Exhibit H marked.) 09:33:22
7 Q Ms. Fiely, now you've been marked -- or handed 09:33:22
8 what's been marked as Defendants' Exhibit H. Do 09:33:24
9 you recognize that? 09:33:26
10 A Yes. 09:33:28
11 Q What is it? 09:33:29
12 A It's the discipline policy. 09:33:30
13 Q How do you recognize that? 09:33:32
14 A I've used it many times. 09:33:34
15 Q In what role? 09:33:36
16 A As a Director of Nursing. 09:33:37
17 Q So you were provided this during your employment at 09:33:39
18 St. Mary's? 09:33:41
19 A Yes. 09:33:42
20 Q And you actually used it when, I presume, you were 09:33:42
21 disciplining folks at St. Mary's? 09:33:45
22 A Yes. 09:33:47
23 Q You're aware, as we've gone over just now, that 09:33:55
24 St. Mary's has policies that prohibit harassment, 09:34:00
25 discrimination, and retaliation? 09:34:02

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1 A Yes. 09:34:04

2 Q And you're aware that there are HR and other 09:34:04

3 avenues available to you to report claims of 09:34:07

4 discrimination, harassment, or retaliation? 09:34:11

5 A Yes. 09:34:13

6 Q As well as any offensive conduct or unfair 09:34:14

7 treatment? 09:34:18

8 A Yes. 09:34:18

9 Q And did you have a human resource representative or 09:34:19

10 contact during your employment at St. Mary's? 09:34:23

11 A Yes. 09:34:26

12 Q Who was that? 09:34:26

13 A Bob Hueneford. 09:34:27

14 Q Is that Bob Huenefeld? 09:34:31

15 A Yeah. 09:34:33

16 Q Okay. And how long was Bob your HR representative 09:34:34

17 during the time you were at St. Mary's? 09:34:36

18 A I think the last couple years of my employment 09:34:38

19 there. 09:34:46

20 Q And so as we've just reviewed, you're aware that 09:34:51

21 St. Mary's had policies on leaves of absence and 09:34:56

22 family medical leave? 09:34:58

23 A Yes. 09:34:59

24 Q And that there was a discipline policy in place? 09:35:00

25 A Yes. 09:35:03

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- 1 Q And you were very familiar with the conduct under 09:35:03
2 that policy that would result in discipline? 09:35:06
3 A Yes. 09:35:08
4 Q As I understand it, you only held one position 09:35:09
5 during the entire time you worked at St. Mary's; is 09:35:13
6 that correct? 09:35:15
7 A Yes. 09:35:15
8 Q What position was that? 09:35:16
9 A Director of Nursing. 09:35:17
10 Q Just tell us briefly your job duties and 09:35:18
11 responsibilities in that position. 09:35:22
12 A Scheduling the staff for the floor, monitoring the 09:35:26
13 falls, the weight loss, the wounds, monitoring the 09:35:32
14 staff, following their policies. 09:35:41
15 Q Anything else that you can recall? 09:35:50
16 A Infection control, both residents and staff. 09:35:53
17 Q How about in terms of employee relations, what was 09:36:06
18 your job related to employee relations? 09:36:09
19 A Customer service to all. 09:36:15
20 Q Including employees? 09:36:16
21 A Including employees. 09:36:18
22 Q How many people did you supervise during the time 09:36:20
23 you were Director of Nursing? I don't need exact 09:36:25
24 numbers at all times but just a ballpark. 09:36:28
25 A Approximately 30. 09:36:30

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1 Q And what were your regularly scheduled work hours 09:36:31
2 and days? 09:36:33
3 A Mine? 09:36:34
4 Q Yes. 09:36:34
5 A I didn't have scheduled work hours and days. 09:36:35
6 Q When did you typically work though? 09:36:38
7 A Nine to ten hours a day from about 8:00 'til 5:00, 09:36:40
8 5:30, sometimes 6:00. 09:36:45
9 Q Was that Monday to Friday? 09:36:47
10 A Uh-huh, and sometimes weekends if necessary. 09:36:48
11 Q And who supervised you? 09:36:50
12 A The Administrator. 09:36:52
13 Q Did you report to anyone else? 09:36:58
14 A No -- well, Regional Nurse when they came. 09:37:00
15 Q Who were the administrators during the time you 09:37:07
16 were the Director of Nursing at St. Mary's? 09:37:10
17 A Matt Russelburg, Brandi Slick, and there was an 09:37:12
18 interim prior to Lorraine. 09:37:20
19 Q You said that one of your jobs was customer service 09:37:27
20 to all, to residents, families, and -- 09:37:31
21 A Anybody. 09:37:33
22 Q -- employees. How would you define your 09:37:33
23 supervisory style? 09:37:38
24 A I have a mixture of supervisory styles. I don't 09:37:40
25 have just one style. I feel like I was a -- I 09:37:43

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1 would get the staff involved if we were going to 09:37:56
2 make a big -- a major change or had a new plan. I 09:37:59
3 would ask them questions on how to -- what were 09:38:03
4 their recommendations 'cause they're the ones that 09:38:06
5 were working the floor. 09:38:09
6 Q Any other way you'd define your supervisory style? 09:38:12
7 A No. 09:38:17
8 Q Did you ever get angry with the staff that reported 09:38:17
9 to you? 09:38:22
10 A I got upset. 09:38:22
11 Q When you say upset, how did that manifest itself? 09:38:26
12 A I'm not sure I understand the question. 09:38:30
13 Q When you felt upset, how did you behave? 09:38:36
14 A I would speak -- I would speak to the nurses or 09:38:42
15 whoever, other aides, and ask them what was going 09:38:48
16 on, why they were doing what they were doing. 09:38:53
17 Q Did you show those aides or other staff members 09:38:58
18 that you were upset? 09:39:02
19 A Not to my knowledge. 09:39:03
20 Q What made you upset? 09:39:06
21 A They did not do the narcotic count on each day, if 09:39:09
22 they were not giving good care. 09:39:15
23 Q What else made you upset? 09:39:24
24 A Basically not giving good care is what upset me the 09:39:27
25 most. 09:39:43

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1 Q And when you became upset and when you believed 09:39:44
2 staff did not provide good care, how did you react? 09:39:49
3 A I would call them into my office. Sometimes they 09:39:52
4 were not even getting along, and I called them into 09:39:57
5 my office and ask them why, what was the problem, 09:40:01
6 which in turn caused not good care. 09:40:05
7 Q Was there ever a time when you addressed issues 09:40:09
8 with resident care outside your office? 09:40:13
9 A No, not to my knowledge. 09:40:18
10 (Defendants' Exhibit I marked.) 09:40:50
11 Q Ms. Fiely, you've been handed what's been marked as 09:40:50
12 Defendants' Exhibit I. Do you recognize that? 09:40:54
13 A Yes. Job description. 09:40:58
14 Q For your job as the Director of Nursing? 09:41:03
15 A Right. Yes. 09:41:06
16 Q And this is eight pages long so I'd ask you to look 09:41:07
17 through it and -- first let me know, it looks like 09:41:11
18 it was signed by Mr. Russelburg on the last page? 09:41:16
19 A Yes. 09:41:23
20 Q And it looks like there's some handwriting on the 09:41:24
21 first page and where -- a line that says employee 09:41:28
22 signature on the last page. Do you recall if -- 09:41:31
23 the employee signature is rather faint. Do you 09:41:34
24 recall if you signed this document at the time your 09:41:37
25 employment began? 09:41:39

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1 A Yes. 09:41:39
2 Q You did? 09:41:40
3 A Yes. 09:41:40
4 Q And, again, as you review the document, take 09:41:41
5 whatever time you need, is this an accurate 09:41:45
6 representation and summary of your job duties as 09:41:47
7 the Director of Nursing at St. Mary's? 09:41:51
8 A Yes. 09:41:54
9 Q Now, you held the DON position for the entirety of 09:42:16
10 your time at St. Mary's. Did you ever seek any 09:42:24
11 other position? 09:42:26
12 A At that building? 09:42:29
13 Q Yes. 09:42:31
14 A No. 09:42:31
15 Q So you started your employment with St. Mary's in, 09:42:32
16 it looks like, February of 2010? 09:42:39
17 A 2005. 09:42:42
18 Q 2005, I'm sorry. Did you leave your employment at 09:42:42
19 St. Mary's any time before 2013? 09:42:45
20 A Yes, in 2010. 09:42:48
21 Q When was that in 2010? 09:42:50
22 A July. 09:42:53
23 Q July 26th sound accurate? 09:42:54
24 A 23rd. 09:42:56
25 Q 23rd. And what led to your separation at that 09:42:58

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1 time? 09:43:00
2 A I was working with an unknowledgeable administrator 09:43:00
3 who didn't even realize that an RN had to be on 09:43:10
4 call 24/7, and I just could not work with her 09:43:14
5 anymore at that time. 09:43:19
6 Q So what did you do as a result of that? 09:43:21
7 A I left. 09:43:23
8 Q You resigned voluntarily? 09:43:25
9 A Yes. 09:43:27
10 Q Did you provide any notice of that resignation? 09:43:27
11 A No. 09:43:31
12 Q Did you inform anyone before you left about why you 09:43:38
13 were leaving? 09:43:41
14 A No. 09:43:41
15 Q Did you inform anyone after you left about why you 09:43:42
16 left? 09:43:46
17 A No. 09:43:49
18 Q The administrator, what was that administrator's 09:43:50
19 name? 09:43:55
20 A Brandi Slick. 09:43:56
21 Q You ended up returning to St. Mary's though, 09:43:57
22 correct? 09:44:03
23 A Yes. 09:44:04
24 Q When was that? 09:44:04
25 A September 2010. 09:44:05

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1 Q Do you know the date in September? 09:44:08
2 A The 20th. 09:44:10
3 Q September 20? Who was the Administrator at that 09:44:10
4 time? 09:44:14
5 A Brandi Slick. 09:44:14
6 Q And why did you return? 09:44:16
7 A I was asked to come back. 09:44:18
8 Q Who asked you to come back? 09:44:19
9 A Barry. 09:44:21
10 Q When did Barry ask you to come back? 09:44:26
11 A I don't know the exact date. 09:44:30
12 Q Was it at the -- shortly after you left, closer to 09:44:36
13 the time you started? 09:44:40
14 A Closer to the time I returned. 09:44:41
15 Q Tell us about your discussions with Barry when he 09:44:43
16 asked you to return. 09:44:46
17 A I told him I didn't think I wanted to come back at 09:44:47
18 that time. 09:44:53
19 Q Who initiated that discussion? 09:44:53
20 A Barry. 09:44:55
21 Q And what did he say to you? 09:44:56
22 A He just asked me if I was wanting -- would be 09:44:59
23 willing to come back to work at St. Mary's Living 09:45:04
24 Center. 09:45:08
25 Q Did he tell you why he wanted you to come back? 09:45:08

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1 A That I was a strong DON and I had good surveys and 09:45:11
2 worked well and asked me if I'd come back. 09:45:18
3 Q And how did you respond to that? 09:45:20
4 A I told him first I did not think I wanted to come 09:45:22
5 back. 09:45:25
6 Q Did you tell him why? 09:45:25
7 A Yes. 09:45:26
8 Q And how did he react to that? 09:45:27
9 A He said let's set up a meeting and we'll discuss it 09:45:29
10 with Brandi. 09:45:36
11 Q And did that end up happening? 09:45:39
12 A Yes. 09:45:40
13 Q When was that? 09:45:41
14 A Probably the week before I came back. 09:45:42
15 Q So early September of 2010? 09:45:49
16 A Right. 09:45:51
17 Q Who participated in that meeting? 09:45:52
18 A Brandi and I, and Barry was on conference call. 09:45:55
19 Q Okay. And where did it take place? 09:45:59
20 A In a restaurant in New Bremen, Ohio. 09:46:01
21 Q And tell us what happened during that meeting. 09:46:05
22 A Brandi and I and Barry on speakerphone just 09:46:07
23 discussed our goals and what we wanted to do 09:46:17
24 with -- what we wanted to accomplish, and then I 09:46:19
25 told Barry on my way home that I would think about 09:46:24

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1 it, I wasn't still sure I wanted to come back. 09:46:26

2 And when I got home, Paul Gustafson called 09:46:30

3 me, who was the D.O., and asked me to return, and 09:46:35

4 that's when I said I would return. 09:46:38

5 Q What was Barry's position at that time? 09:46:39

6 A Regional Nurse. 09:46:41

7 Q So what did you -- tell us about the process of 09:46:45

8 returning as it relates to the process you went 09:47:12

9 through when you first started employment at 09:47:15

10 St. Mary's. 09:47:16

11 A I just returned on that following Monday after the 09:47:19

12 discussion with Paul and Barry and back into my 09:47:24

13 position. 09:47:27

14 Q Did you go through any additional training? 09:47:28

15 A No. 09:47:30

16 Q So we talked a little bit ago about the 09:47:30

17 Administrators who were your supervisors during 09:47:43

18 your time at St. Mary's. 09:47:45

19 A Yes. 09:47:45

20 Q And I guess we can break that up into two parts, 09:47:45

21 the time before you left in 2010 and the time after 09:47:48

22 you left. As I understand it, you had Brandi -- 09:47:51

23 after you came back in 2010 Brandi Slick? 09:47:55

24 A Yes. 09:47:58

25 Q And then there was an interim following that? 09:47:58

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1 A Yes. 09:48:02

2 Q Do you recall that interim Administrator's name? 09:48:03

3 A No. 09:48:05

4 Q And then that was followed by Lorraine? 09:48:06

5 A Yes. 09:48:09

6 Q When did Lorraine start as your supervisor? 09:48:09

7 A December 2010. 09:48:12

8 Q And how long was Brandi the Administrator after you 09:48:20

9 returned? 09:48:24

10 A Approximately 30 days. 09:48:24

11 Q Her employment ended sometime in October? 09:48:26

12 A Yes. 09:48:29

13 Q Let's talk about the time you reported to Lorraine. 09:48:30

14 What was her role as the facility's Administrator? 09:48:40

15 A Her role as a Facilities Administrator was to take 09:48:46

16 care of the financials and to administrate the 09:48:52

17 building, make sure it was properly run. 09:48:56

18 Q Did you see Lorraine on a daily basis? 09:48:59

19 A Yes. 09:49:04

20 Q I mean, did you have regular interaction with her? 09:49:04

21 A Basically just at the a.m. meetings. 09:49:07

22 Q And tell us about that interaction. What was the 09:49:11

23 subject of it, what did you discuss? 09:49:17

24 A We discussed -- in a.m. meetings, we discussed the 09:49:19

25 new orders, any possible admissions, any 09:49:27

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1	discharges.	09:49:31
2	Q And how frequently did you interact with her during	09:49:33
3	the remainder of the day?	09:49:37
4	A Not a whole lot. Her office was in the front of	09:49:39
5	the building, mine was in the back of the building.	09:49:43
6	Q So Lorraine was your supervisor from December 2010	09:49:49
7	until your employment ended in April of 2013?	09:49:53
8	A Yes.	09:49:56
9	Q Describe your relationship with Lorraine.	09:49:57
10	A Very good at the beginning. We had to do meetings	09:50:00
11	in Columbus or various places, Kentucky, we had to	09:50:16
12	travel together, and we seemed to fit very well.	09:50:24
13	We liked to go shopping between meetings or after	09:50:27
14	the meeting.	09:50:30
15	Q What else made that a good relationship?	09:50:34
16	A I think we had the same goals.	09:50:39
17	Q So how did that relationship continue after -- you	09:50:48
18	said it was very good in the beginning?	09:50:53
19	A Uh-huh.	09:50:55
20	Q How long would you say it was very good?	09:50:56
21	A Up until the early part of 2013.	09:50:58
22	Q What happened then?	09:51:12
23	A Nothing particular, it just seemed to erode.	09:51:14
24	Q And how did it erode?	09:51:23
25	A I think part of the problem was we did not speak	09:51:25

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1 with each other very much even during the time 09:51:30
2 prior to that because, like I said, my office was 09:51:33
3 in the back, I was busy back there at the nurse's 09:51:35
4 station or in committees and meetings, and her 09:51:39
5 office was in front, she was gone a lot. And we 09:51:42
6 tried to set up a time, and it might happen one day 09:51:45
7 and after that it would be two, three, four days 09:51:48
8 before it would happen again, because -- 09:51:52
9 Q So what -- go ahead. I'm sorry. 09:51:54
10 A Because she also did a lot of marketing so she was 09:51:55
11 gone quite a bit. 09:51:59
12 Q And what impact did that have on your relationship 09:52:00
13 with her? 09:52:02
14 A How did what impact? 09:52:03
15 Q The fact that you had a less frequent interaction 09:52:07
16 with her, how did that impact your relationship 09:52:09
17 with her? 09:52:12
18 A Just like any team, when you don't work together as 09:52:13
19 much, you seem to separate. 09:52:20
20 Q And what were the byproducts? What feelings did 09:52:23
21 you have when you started to separate about your 09:52:26
22 relationship with Lorraine. 09:52:29
23 A I think I felt -- I think I felt displaced. A lot 09:52:32
24 of times I did not know what was going on. I would 09:52:41
25 have to find out from sometimes the staff. 09:52:44

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1 Q And how did that make you feel? 09:52:52
2 A Displaced, like I wasn't part of the building 09:52:54
3 anymore. 09:52:58
4 Q Did you think you were treated fairly by Lorraine? 09:53:00
5 A Most of the time. 09:53:03
6 Q When were you -- you believe you were not treated 09:53:10
7 fairly by Lorraine? 09:53:13
8 A After I read all the information that I was sent by 09:53:15
9 your staff. 09:53:20
10 Q So at no -- 09:53:22
11 A I was -- 09:53:22
12 Q -- time during your employment did you feel that 09:53:23
13 you were treated unfairly by Lorraine? 09:53:25
14 A Just that I felt I wasn't being treated fairly as 09:53:29
15 a DON because I wasn't daily involved in what was 09:53:32
16 going on. 09:53:38
17 Q Do you have any other problems with Lorraine that 09:53:39
18 we haven't already talked about? 09:53:46
19 A I can't think of any at this time. 09:53:48
20 Q Did she ever say anything to you or engage in any 09:53:58
21 conduct toward you that you found to be offensive 09:54:02
22 or inappropriate? 09:54:04
23 A Not at this time, I can't think of anything. 09:54:17
24 Q Did she ever say anything to anyone else that you 09:54:25
25 heard and found to be offensive or inappropriate? 09:54:32

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1 A I don't remember. 09:54:36

2 Q There's nothing that you can recall now? 09:54:48

3 A No. 09:54:50

4 Q Do you think Lorraine had any problem with you 09:54:51

5 because of your age? 09:54:57

6 A Yes. 09:54:58

7 Q Why? 09:54:58

8 A She told me more than once that I could go find a 09:54:58

9 job anywhere, why don't I just retire. But she 09:55:06

10 would say it in a way that she was looking for 09:55:14

11 something else too. These were like on our 09:55:16

12 business trips, these kind of comments were made 09:55:19

13 mostly. 09:55:22

14 Q Anything else? 09:55:27

15 A No. 09:55:29

16 Q How many times do you claim that she made those 09:55:41

17 comments to you? 09:55:44

18 A I would say in that last year, four to five times. 09:55:46

19 Q Four to five times in, you said, over the last 09:55:56

20 year, so what time period would that encompass? 09:56:01

21 A Well, we had to go on -- like I said, it mostly 09:56:07

22 happened on -- when we were traveling and we would 09:56:13

23 start talking. 09:56:15

24 Q Let me ask the question in a different way. When 09:56:17

25 was the first time you claim she made a comment 09:56:20

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1 about retirement to you? 09:56:22

2 A I think in February when we were traveling to 09:56:32

3 Columbus. 09:56:38

4 Q February of what year? 09:56:40

5 A 2013. 09:56:42

6 Q Okay. And tell me what you claim she said at that 09:56:43

7 time. 09:56:51

8 A Just asked me why I didn't retire. And we were 09:56:51

9 discussing how stressful the work was anymore. 09:57:04

10 Q Did you tell her that you believed the work was 09:57:14

11 stressful? 09:57:17

12 A At times. 09:57:19

13 Q During that conversation? 09:57:20

14 A Yes, at -- at times I said yes, it is stressful at 09:57:21

15 times. 09:57:25

16 Q What else were you discussing during that 09:57:26

17 conversation? 09:57:30

18 A Just -- we just talked about all the things we had 09:57:34

19 to accomplish in a 24-hour period of time, and 09:57:48

20 that's how this came about. 09:57:51

21 Q And what did she say exactly? 09:57:53

22 A Oh, I can't tell you exactly. That's been a long 09:57:55

23 time ago. 09:57:58

24 Q As close as you can get it anyway. 09:57:59

25 A Please repeat that question. 09:58:05

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1 Q Please tell us, as closely as you can remember it, 09:58:08
2 exactly what you claim Lorraine said to you during 09:58:15
3 that car ride that made you feel that she had a 09:58:19
4 problem with you because of your age. 09:58:24
5 A Basically just what I told you. We just talked 09:58:34
6 about sometimes the stress during the job and asked 09:58:37
7 me why I didn't retire because I was getting old 09:58:41
8 enough -- I could retire early, why didn't I retire 09:58:43
9 and maybe find a part-time job. That's basically 09:58:48
10 all we talked about. 09:58:50
11 Q Did she say because you were getting old? 09:58:51
12 A No. But she -- 09:58:54
13 Q Did she explicitly reference your age in any way? 09:58:58
14 A Regarding retirement, yes. 09:59:02
15 Q And how did she reference your age? 09:59:05
16 A You should be old enough to get thinking about 09:59:07
17 retirement. 09:59:10
18 Q Any other way? 09:59:10
19 A No. 09:59:12
20 Q Did she ever reference herself retiring as well? 09:59:13
21 A No. 09:59:17
22 Q She never discussed that, her intent to or desire 09:59:18
23 to during those conversations? 09:59:21
24 A No. 09:59:22
25 Q Did you ever express to her your desire to retire? 09:59:23

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1 A I think I -- I said I wasn't old enough to retire 09:59:37
2 yet. 09:59:43
3 Q Did you indicate to her an intent to retire or a 09:59:44
4 desire -- 09:59:47
5 A No. 09:59:47
6 Q -- to retire? 09:59:47
7 A No. 09:59:48
8 Q You never indicated to her -- 09:59:48
9 A No. No. 09:59:49
10 Q You're going to need to let me finish my questions, 09:59:50
11 Ms. Fiely. 09:59:53
12 A Sorry. 09:59:53
13 Q Did Lorraine ever discuss with you an intent to 09:59:53
14 leave St. Mary's? 10:00:05
15 A For me to leave St. Mary's? 10:00:09
16 Q No, for herself to leave St. Mary's. 10:00:10
17 A Yes. 10:00:12
18 Q And a desire to leave St. Mary's? 10:00:13
19 A Yes. 10:00:14
20 Q Did you discuss with her the same thing? 10:00:15
21 A I don't know. I don't remember saying that I 10:00:20
22 wanted to leave St. Mary's. My plan was to stay 10:00:44
23 there until 6' -- I was 65 and retire from 10:00:47
24 St. Mary's. 10:00:50
25 Q Did you ever talk with her about escaping the 10:00:51

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1 stress of St. Mary's? 10:00:55
2 A Please? 10:00:57
3 Q Did you ever talk with her about escaping the 10:00:57
4 stress present at St. Mary's? 10:00:59
5 A Escaping the stress, you said? 10:01:09
6 Q Yes. 10:01:12
7 A No. 10:01:14
8 Q So you discussed how stressful the work was at 10:01:16
9 times? 10:01:19
10 A Yes. 10:01:19
11 Q What did you discuss with her, if anything, about 10:01:20
12 doing about that? 10:01:23
13 A No. 10:01:39
14 Q You didn't have any discussion with her about what 10:01:41
15 to do to escape the stress that was present at 10:01:44
16 St. Mary's? 10:01:46
17 A I don't remember having a discussion on how to 10:01:48
18 escape it. 10:01:52
19 Q But Lorraine, as I understand your testimony, told 10:01:53
20 you that to escape that stress she at times thought 10:01:55
21 about leaving St. Mary's? 10:02:00
22 A Yes. Opening her own business is what she talked 10:02:01
23 about. 10:02:05
24 Q And I'll ask you again, did you ever have any 10:02:06
25 discussion with Lorraine about how you would escape 10:02:09

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1 that stress? 10:02:12

2 A I don't remember having that discussion. 10:02:14

3 Q You said there were four or five times you claim 10:02:18

4 that Lorraine made these comments to you. 10:02:20

5 A Uh-huh. 10:02:22

6 Q The first was on a February 2013 ride to Columbus. 10:02:22

7 When was the second? 10:02:26

8 A I'm trying to think of the month when we had to go 10:02:28

9 on a quarterly meeting. Probably March. 10:02:32

10 Q Let's go back to February real quickly. Was anyone 10:02:47

11 else present for that discussion -- 10:02:50

12 A No. 10:02:50

13 Q -- between the two of you? 10:02:52

14 A It was just Lorraine and I. 10:02:53

15 Q How long did that discussion last when you talked 10:02:54

16 about retirement? 10:02:56

17 A Ten minutes. 10:02:59

18 Q So the second time you claim was in a -- on the way 10:03:04

19 to a quarterly meeting in March of 2013? 10:03:06

20 A Yes. 10:03:09

21 Q And tell us what happened then. 10:03:09

22 A Basically that was our only time that we could 10:03:13

23 really sit and talk to one another as two human 10:03:24

24 beings out of the -- out of the work area. And we 10:03:29

25 discussed again some of the stresses, what the 10:03:32

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1 meeting was going to be about, what they were 10:03:40
2 going -- new implementations that was going to come 10:03:43
3 about. 10:03:47
4 Q What do you claim she said to you during that 10:03:54
5 discussion that makes you think she had a problem 10:03:58
6 with you because of your age? 10:04:00
7 A Just that the idea of retirement came up again. 10:04:14
8 Q How did it come up? 10:04:21
9 A During speaking of our stressful days. 10:04:23
10 Q Who raised the issue? 10:04:29
11 A Lorraine. 10:04:33
12 Q What did she say to the best of your knowledge as 10:04:34
13 you sit here today? 10:04:38
14 A Have you thought any more about retirement. 10:04:40
15 Q How did you react to that? 10:04:50
16 A I says no, I am trying to deal with my stress and 10:04:52
17 I don't -- cannot -- I am unable to retire until I 10:04:59
18 turn 65. 10:05:03
19 Q During that discussion, did Lorraine express an 10:05:07
20 intent or desire to leave St. Mary's? 10:05:17
21 A I don't remember her saying anything about leaving 10:05:21
22 St. Mary's at that time. 10:05:24
23 Q Was there any other time that Lorraine made any 10:05:25
24 claimed comment to you that made you think she had 10:05:34
25 a problem with you because of your age? 10:05:36

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1 A The last time -- the other time I remember is when 10:05:45
2 prior to my termination she called me approximately 10:05:49
3 a week earlier, two weeks earlier, I do not 10:05:56
4 remember the exact date, called me at home and 10:05:59
5 asked me -- told me she had a nice retirement 10:06:03
6 package for me if I was interested. 10:06:06

7 Q She called you on the telephone? 10:06:12

8 A Yes. 10:06:23

9 Q Take us through that phone call from the beginning 10:06:24
10 to end. 10:06:26

11 A She called me at home, I answered the phone, she 10:06:27
12 says, hello, this is Lorraine. I says, hi, 10:06:33
13 Lorraine. She goes, oh, I just called, I was 10:06:37
14 wondering -- I was thinking about I could offer you 10:06:39
15 a nice retirement package if you think you might be 10:06:44
16 interested. And I told her, no, I was not 10:06:45
17 interested at the time. 10:06:47

18 Q Was that the extent of the conversation? 10:06:49

19 A Yes. 10:06:51

20 Q Did you talk about anything else during that call? 10:06:52

21 A No. 10:06:54

22 Q Did you have any discussion about retirement plans 10:06:55
23 or packages at any time prior to that -- 10:06:58

24 A No. 10:07:02

25 Q -- after the March -- that's okay -- after the 10:07:02

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1	March 2013 meeting?	10:07:05
2	A I don't think so.	10:07:08
3	Q How long would you say that conversation lasted?	10:07:09
4	A It was very short. I was busy trying to get	10:07:14
5	supper, and when she discussed the retirement, I	10:07:20
6	told her I was not interested.	10:07:24
7	Q Do you know what day of the week it was?	10:07:26
8	A No.	10:07:27
9	Q Was it a weekday or weekend?	10:07:27
10	A Weekday.	10:07:29
11	Q Was there any other interaction with Lorraine that	10:07:34
12	makes you believe that she had a problem with you	10:07:40
13	because of your age?	10:07:42
14	A I cannot think of any right now.	10:07:51
15	Q So have you told me every fact on which you base	10:07:54
16	your belief that Lorraine had a problem with you	10:07:57
17	because of your age?	10:08:00
18	A Yep. Yes.	10:08:02
19	Q Do you believe anyone else with Atrium or Essex had	10:08:04
20	any issue with you or problem with you because of	10:08:11
21	your age?	10:08:13
22	A No.	10:08:15
23	Q Do you think Lorraine had any problem with you	10:08:20
24	because of any medical condition you had?	10:08:24
25	A No.	10:08:28

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1 Q Do you think Lorraine had any problem with you 10:08:29
2 because you may have requested or needed a leave of 10:08:33
3 absence due to a medical condition? 10:08:36
4 A No. 10:08:39
5 Q Do you think Lorraine had any problem with you 10:08:39
6 because you may have complained about any alleged 10:08:45
7 inappropriate conduct or anything else relating to 10:08:49
8 your working conditions or work environment? 10:08:52
9 A No. 10:08:58
10 Q Do you think anyone with Essex or Atrium had any 10:08:59
11 problem with you because of any medical condition 10:09:09
12 you may have had? 10:09:12
13 A No. I didn't have a medical condition. 10:09:14
14 Q Do you think anyone with Essex or Atrium had a 10:09:17
15 problem with you because you may have requested or 10:09:23
16 needed a leave of absence related to any medical 10:09:25
17 condition? 10:09:28
18 A No. 10:09:29
19 Q And do you think anyone with Essex or Atrium had 10:09:30
20 any problem with you because you complained about 10:09:33
21 alleged inappropriate conduct or anything else 10:09:38
22 relating to your working conditions? 10:09:40
23 A No. 10:09:43
24 Q So other than what we've already talked about, do 10:09:43
25 you claim that Lorraine did anything to you that 10:09:50

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1 was inappropriate? 10:09:54

2 A Yes. All the information in the file I did not 10:10:07

3 know anything about. 10:10:10

4 Q And what information was that? 10:10:13

5 A Statements. 10:10:14

6 Q Do you believe she did any of that because of your 10:10:23

7 age? 10:10:25

8 A Possibly. 10:10:29

9 Q Why do you believe that? 10:10:30

10 A 'Cause I think at this point she didn't want me 10:10:32

11 there anymore. 10:10:39

12 Q And so the information in the file, statements, 10:10:41

13 what else? 10:10:45

14 A That's pretty well it. The things that I did not 10:10:49

15 know anything about were in my personnel file which 10:10:53

16 I did not find out about until I got the 10:10:56

17 information that you sent over. 10:11:00

18 Q And what information was that that you did not know 10:11:01

19 about? 10:11:03

20 A Statements. 10:11:03

21 Q Statements by whom? 10:11:06

22 A Her, maintenance, Activities Director. 10:11:08

23 Q And why do you believe those showed that 10:11:28

24 Ms. Fischio had a problem with you because of your 10:11:31

age? 10:11:36

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1 A I just think at that point she wanted somebody 10:11:36
2 younger, different. 10:11:40
3 Q Why do you believe she wanted someone younger? 10:11:48
4 A She was quite a bit younger and maybe she just -- 10:11:53
5 I felt she wanted somebody younger than I 10:11:57
6 was 'cause -- possibly the old age syndrome was she 10:12:05
7 thought I was getting too old for the job. 10:12:09
8 Q Is there anything else she did to you other than 10:12:11
9 what we've already talked about that made you 10:12:13
10 believe that? 10:12:16
11 A When you keep asking about retirement, I think 10:12:18
12 that's a pretty good reason. 10:12:23
13 Q I just want to make sure I know everything on which 10:12:25
14 you base that belief. 10:12:28
15 A Okay. 10:12:30
16 Q Have we talked about everything? 10:12:31
17 A I believe so. 10:12:33
18 Q Is there -- other than what we've already talked 10:12:33
19 about, do you claim that Lorraine did anything else 10:12:37
20 to you you thought was inappropriate? 10:12:39
21 A Other than -- not that -- you've got that, and 10:12:41
22 that's -- 10:12:45
23 Q Is there anything else? 10:12:45
24 A Not to my knowledge at this point. 10:12:53
25 Q Well, this is the only chance I'm going to have a 10:12:55

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1 chance to talk to you before trial so I need to 10:12:58
2 know if there's anything else. 10:13:01
3 A I can't think of anything else. 10:13:03
4 MR. FRANKLIN: Can we take a break 10:13:04
5 now? It's been an hour and 15 minutes. 10:13:05
6 MR. GARRISON: Yeah, that sounds 10:13:08
7 great. 10:13:10
8 (Recess taken; Defendants' Exhibits J - P 10:13:10
9 marked.) 10:13:10
10 VIDEOGRAPHER: On record. 10:35:05
11 Q Ms. Fiely, we're back on the record now. We were 10:35:06
12 talking before the break about problems you had 10:35:10
13 with folks at -- Ms. Fischio and other folks at 10:35:12
14 St. Mary's. 10:35:18
15 Did you have any problems with anyone else 10:35:18
16 during your employment at St. Mary's? 10:35:20
17 A Could you explain that question? 10:35:23
18 Q Did you have any -- well, let me -- I'll withdraw 10:35:25
19 that and -- do you believe that anyone else at 10:35:33
20 St. Mary's had any problem with you or issue with 10:35:38
21 you because of your age? 10:35:42
22 A No. 10:35:45
23 Q And we've -- have we now talked about all the ways 10:35:48
24 in which you felt that Ms. Fischio had a problem 10:35:54
25 with you because of your age? 10:35:59

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1 A I think so. I think we have. 10:36:02

2 Q Well, I'll ask you to just think and make sure 10:36:10

3 you try to recall each and every way in which you 10:36:14

4 believe that Ms. Fischio had a problem with you 10:36:18

5 because of your age. 10:36:21

6 A I can't think of any right now, except I did talk 10:36:24

7 to Barry about it. 10:36:55

8 Q And we'll talk -- I'll ask you about that here in a 10:36:56

9 little bit. Were there any problems that you had 10:36:59

10 with anyone else who worked at St. Mary's during 10:37:07

11 your employment there? 10:37:10

12 A As far as? 10:37:11

13 Q Just any type of problems that you feel that you 10:37:15

14 had or issues you had with the way someone who 10:37:19

15 worked at St. Mary's treated you. 10:37:21

16 A No. 10:37:27

17 Q When you worked at St. Mary's, your performance was 10:37:31

18 evaluated on an annual basis, right? 10:37:36

19 A Exactly. 10:37:38

20 Q And tell us about that process. 10:37:39

21 A Just had a yearly evaluation. 10:37:44

22 Q So how did the process work? Were you given a copy 10:37:50

23 of the evaluation, did you talk with someone about 10:37:53

24 it? 10:37:56

25 A No, they just called you in the office and reviewed 10:37:56

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1 it with you. 10:38:01

2 Q Who called you in the office? 10:38:02

3 A Administrator. 10:38:03

4 Q So the Administrator would call you in the office, 10:38:04

5 review the performance evaluation with you? 10:38:07

6 A Yes. 10:38:09

7 Q Did you have an opportunity to talk with the 10:38:09

8 Administrator at that time about the performance 10:38:11

9 evaluation? 10:38:13

10 A Yes. 10:38:14

11 Q And did you take that opportunity if you had any 10:38:14

12 issues with the performance evaluation -- 10:38:17

13 A Yes. 10:38:19

14 Q -- to discuss it? 10:38:19

15 A Yes. 10:38:20

16 Q Now, we're going to talk about your performance 10:38:22

17 evaluations so bear with me as we go through the 10:38:25

18 ones from your file. 10:38:29

19 I've handed you what's been marked as 10:38:36

20 Defendants' Exhibit J. Do you recognize that? 10:38:43

21 A Yes. 10:38:47

22 Q And that's a copy of your, it looks like, 10:39:09

23 February 2006 performance evaluation, correct? 10:39:13

24 A Correct. 10:39:16

25 Q And that's your signature on the last page? 10:39:17

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1 A Yes. 10:39:21

2 Q And did you meet with anyone to discuss this 10:39:21

3 evaluation? 10:39:23

4 A Matt Russelburg. 10:39:26

5 Q And tell me -- I realize this is a long time ago, 10:39:27

6 but tell me anything and everything you remember 10:39:30

7 about that meeting related to this evaluation. 10:39:33

8 A Basically what it states, that it was a pretty good 10:40:02

9 evaluation. 10:40:11

10 Q Is there anything in this that you disagree with? 10:40:11

11 A No. 10:40:13

12 Q And it looks like you got a pay increase following 10:40:14

13 this? 10:40:16

14 A Yes. 10:40:17

15 Q Did you receive a bonus after this? 10:40:17

16 A No, not after this. 10:40:20

17 Q Now I've handed you what's been marked as 10:40:24

18 Defendants' Exhibit K. Do you recognize that? 10:40:40

19 A Yes. 10:41:07

20 Q That's your performance evaluation for -- given to 10:41:08

21 you in 2007, correct? 10:41:13

22 A Correct. 10:41:16

23 Q And that's your signature on the second page? 10:41:19

24 A Yes. 10:41:22

25 Q Was this also given to you by Mr. Russelburg? 10:41:22

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1 A Yes. 10:41:27

2 Q And you met with him to discuss it? 10:41:27

3 A Yes. 10:41:29

4 Q Do you recall anything in particular about that 10:41:30

5 meeting to discuss this evaluation? 10:41:35

6 A Just that we had a deficiency-free survey. 10:41:41

7 Q And is there anything in this evaluation that you 10:41:46

8 disagree with? 10:41:49

9 A Nope. 10:42:02

10 Q Did you get a pay increase following this? 10:42:05

11 A No -- yes, I did. 10:42:08

12 Q It looks like 3 percent -- 10:42:10

13 A Yes. 10:42:10

14 Q -- noted on the second page? 10:42:12

15 A Yes. 10:42:14

16 Q Now I have handed you what's been marked as 10:42:14

17 Defendants' Exhibit L. Do you recognize that? 10:42:27

18 A Yes. 10:42:29

19 Q And that's your review for 2008? 10:43:16

20 A Yes. 10:43:20

21 Q And it was delivered to you -- that's your 10:43:21

22 signature on Page 4? 10:43:26

23 A Yes. 10:43:28

24 Q It was delivered to you by Mr. Russelburg? 10:43:29

25 A Yes. 10:43:32

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1 MR. FRANKLIN: I'm going to object. 10:43:33
2 I think it's her evaluation for 2007 given 10:43:36
3 to her in 2008. 10:43:38
4 Q Did you meet with Mr. Russelburg to discuss this 10:43:40
5 evaluation? 10:43:43
6 A Yes. 10:43:44
7 Q Is there anything that you recall about the meeting 10:43:45
8 with Mr. Russelburg to discuss this evaluation? 10:43:50
9 A No. We just, again, discussed the 2007 deficiency- 10:44:00
10 free survey and what a good job we did. 10:44:05
11 Q Is there anything in this review that you disagree 10:44:08
12 with? 10:44:11
13 A No. 10:44:11
14 Q Did you get a pay increase following this? 10:44:11
15 A Yes. 10:44:14
16 Q Did you receive a bonus? 10:44:14
17 A No bonus. 10:44:16
18 Q Now I've given you what's been marked as Exhibit M. 10:44:22
19 Do you recognize that? 10:44:33
20 A Yes. 10:45:07
21 Q That's a copy of the performance evaluation that 10:45:07
22 was issued to you in 2009, correct? 10:45:11
23 A Correct. 10:45:13
24 Q And it was given to you by Mr. Russelburg again? 10:45:14
25 A Yes. 10:45:17

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1 Q You met with him to discuss this? 10:45:18
2 A Yes. 10:45:20
3 Q Is there anything that you can recall about that 10:45:20
4 meeting? 10:45:23
5 A Just -- no. 10:45:36
6 Q And that's your signature on the second page? 10:45:39
7 A Yes. 10:45:41
8 Q Is there anything in this performance review that 10:45:42
9 you disagree with? 10:45:47
10 A No. 10:45:54
11 Q You received a pay increase following this review? 10:45:56
12 A Yes. 10:46:04
13 Q Did you receive a bonus? 10:46:04
14 A No bonus. 10:46:06
15 Q Ms. Fiely, I've given you Defendants' Exhibit N. 10:46:13
16 Do you recognize that? 10:46:27
17 A Yes. 10:46:50
18 Q Is that your signature on the -- I'm sorry, it's a 10:46:50
19 copy of the performance evaluation that was given 10:46:58
20 to you in 2011? 10:47:01
21 A Yes. 10:47:05
22 Q By your -- that's your signature on the second 10:47:06
23 page? 10:47:13
24 A Yes. 10:47:13
25 Q It looks like -- I can't tell whether that was 2010 10:47:13

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1 or 2011, but it was given to you by Ms. Fischio, 10:47:17
2 correct? 10:47:22
3 A Correct. 10:47:22
4 Q Did Ms. Fischio supervise you in February 2011? 10:47:23
5 A Please? 10:47:33
6 Q Did Ms. Fischio supervise you in February of 2011? 10:47:44
7 A Yes. 10:47:49
8 Q Did she supervise you in February 2010? 10:47:49
9 A No. I don't -- I think -- 10:47:52
10 Q And this was issued to you -- 10:47:58
11 A Yes. 10:47:58
12 Q -- by Ms. Fischio? 10:47:59
13 A Yes. 10:48:02
14 Q What's your understanding about the year or the 10:48:02
15 time period that this review related to? 10:48:04
16 A 2010. It was for the year 2010. 10:48:07
17 Q So it was for your performance before you left in 10:48:09
18 2010? 10:48:13
19 A Right. 10:48:14
20 Q Did you meet with Ms. Fischio to review this 10:48:15
21 evaluation? 10:48:24
22 A Yes. 10:48:25
23 Q And do you recall anything about that meeting? 10:48:25
24 A No. 10:48:40
25 Q You disagree with anything in this evaluation? 10:48:40

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1 A No. 10:48:46

2 Q Did you receive a pay increase following this 10:48:46

3 evaluation? 10:48:51

4 A Yes. I think. Does it say? 10:48:52

5 Q Did you receive a bonus following this evaluation? 10:48:58

6 A No. 10:49:01

7 Q Now I've given you what's been marked as 10:49:01

8 Defendants' Exhibit O. Do you recognize that 10:49:17

9 document? 10:49:20

10 A Yes. 10:49:43

11 Q What is it? 10:49:43

12 A Evaluation for 2010. 10:49:46

13 Q So this relates to the time in 2010 through 10:49:56

14 February of 2011? 10:50:01

15 A Yes. 10:50:03

16 Q And the prior one we looked at -- well, first of 10:50:03

17 all, let me ask you, when was this issued to you? 10:50:08

18 A Well, it's signed 2-18-2011. 10:50:14

19 Q And the prior document, Exhibit N, was also signed 10:50:18

20 by you in 2011; is that correct? 10:50:23

21 A Correct. 10:50:25

22 Q But they related to different time periods; is that 10:50:25

23 accurate? 10:50:28

24 A I'm not sure. 10:51:08

25 Q Do you recall whether both of these were issued to 10:51:09

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		Page 62
1	you at the same time, Exhibits N and O?	10:51:13
2	A I'm not sure.	10:51:40
3	Q This is your signature on the second page of this	10:51:41
4	document, Exhibit O?	10:51:48
5	A Yes.	10:51:48
6	Q And it was issued to you by Lorraine?	10:51:50
7	A Yes.	10:51:51
8	Q And you met with Lorraine to review it?	10:51:52
9	A Yes.	10:51:55
10	Q Do you recall anything about that meeting with	10:51:55
11	Lorraine?	10:51:58
12	A No, just -- no.	10:52:00
13	Q Is there anything in this review that you disagree	10:52:05
14	with?	10:52:08
15	A No.	10:52:10
16	Q Did you get a pay increase after this?	10:52:17
17	A I don't remember.	10:52:27
18	Q Did you receive a bonus?	10:52:29
19	A No.	10:52:30
20	Q I've handed you what's been marked as Defendants'	10:52:46
21	Exhibit P. Do you recognize that?	10:52:50
22	A Yes.	10:54:31
23	Q It's the copy of the performance evaluation issued	10:54:32
24	to you in February of 2013?	10:54:37
25	A Yes.	10:54:41

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1 Q It was issued to you by Lorraine Fischio? 10:54:43
2 A Yes. 10:54:46
3 Q Did you meet with Ms. Fischio to review this? 10:54:47
4 A Yes. 10:54:51
5 Q Do you recall anything about that meeting? 10:54:51
6 A No. 10:55:00
7 Q Do you disagree with anything that's included in 10:55:02
8 this review? 10:55:05
9 A No. 10:55:42
10 Q That's your signature on the third page? 10:55:43
11 A Yes. 10:55:47
12 Q In the top right-hand corner of that page it says 10:55:48
13 individual's comments, see attached. Did you 10:55:52
14 submit comments in response to this review? 10:55:56
15 A I'm not aware. 10:56:15
16 Q You don't know one way or the other whether you did 10:56:17
17 or you didn't? 10:56:20
18 A No. 10:56:21
19 Q Did you receive a pay increase following that 10:56:21
20 review? 10:56:32
21 A Yes. 10:56:33
22 Q Do you recall the amount of it? 10:56:34
23 A No. 10:56:38
24 Q Did you receive a bonus? 10:56:39
25 A No. 10:56:41

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1 Q At any time after that you did not receive a bonus? 10:56:42
2 A After February 2013? 10:56:51
3 Q Yes. 10:56:53
4 A Not -- no. 10:56:59
5 Q Did you ever receive formal disciplinary action 10:57:03
6 while you worked at St. Mary's? 10:57:07
7 A Yes. 10:57:12
8 Q Do you recall when? 10:57:13
9 A No. 10:57:16
10 Q Do you recall from whom? 10:57:16
11 A Brandi Slick. 10:57:18
12 Q Anyone else? 10:57:25
13 A I cannot recall. Matt. 10:57:27
14 Q Anyone else? 10:57:33
15 A And Lorraine. 10:57:35
16 (Defendants' Exhibit Q marked.) 10:57:55
17 Q I've handed you what's been marked as Defendants' 10:57:55
18 Exhibit Q. Do you recognize that? 10:58:02
19 A No. 10:58:29
20 Q Is that your signature about three-quarters of the 10:58:30
21 way down the page? 10:58:33
22 A Yes, I -- 10:58:34
23 Q And did Mr. Russelburg issue this to you? 10:58:36
24 A Yes. 10:58:40
25 Q This is a Step 2 discipline for first written 10:58:46

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		Page 65
1	warning, correct?	10:58:49
2	A Yes.	10:58:53
3	Q And it says -- the description of violation is "Did	10:58:54
4	not use correct call policy for corporate reporting	10:58:58
5	of incidents"; is that accurate? What I've read,	10:59:01
6	is that an -- the accurate depiction of what's on	10:59:06
7	the page?	10:59:08
8	A What's on the page.	10:59:08
9	Q What happened that led to this?	10:59:09
10	A I don't know.	10:59:11
11	Q Is there any reason that you disagree with the	10:59:20
12	appropriateness of this disciplinary action?	10:59:22
13	A Yes. There's not even a year on it or an	10:59:26
14	explanation.	10:59:36
15	Q Anything else?	10:59:36
16	A No.	10:59:39
17	(Defendants' Exhibit R marked.)	11:00:28
18	Q I've given you what's been marked as Defendants'	11:00:28
19	Exhibit R. Do you recognize that?	11:00:35
20	A Yes.	11:01:06
21	Q Who issued this to you?	11:01:06
22	A Matt Russelburg.	11:01:11
23	Q And that's your signature on the second page?	11:01:13
24	A Yes.	11:01:15
25	Q And what happened that led to this disciplinary	11:01:15

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1 action? 11:01:22

2 A We had a complaint survey. 11:01:23

3 Q And what was that particular complaint? 11:01:28

4 A It says "inappropriate use of restraint." 11:01:31

5 Q And what happened that caused the complaint about 11:01:45

6 an inappropriate use of restraints? 11:01:49

7 A Evidently there was inappropriate use of a 11:01:58

8 restraint. 11:02:12

9 Q Do you recall at all what that allegation of the 11:02:12

10 inappropriate use of restraint related to? 11:02:14

11 A No. 11:02:35

12 Q You don't recall what the allegation was that 11:02:36

13 resulted in this disciplinary action? 11:02:39

14 A No. 11:02:51

15 Q Do you recall a complaint relating to having a 11:02:51

16 resident tied up with duct tape? 11:02:54

17 A Yes. 11:03:09

18 Q Is that what led to this disciplinary action? 11:03:10

19 A Yes. 11:03:14

20 Q What happened? 11:03:14

21 A Duct tape was used on a resident because -- to see 11:03:25

22 if she could get out of it, and she -- and that 11:03:33

23 complaint became of that. 11:03:39

24 Q Who applied the duct tape to the resident? 11:03:39

25 A I did. 11:03:42

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1 Q Why? 11:03:43
2 A Because I knew she could get out of it. 11:03:44
3 Q Because you knew she could get out of the duct 11:03:48
4 tape. And who issued the complaint? 11:03:51
5 A I don't know. 11:03:54
6 Q Did you lose any pay or benefits as a result of 11:03:59
7 this disciplinary action? 11:04:02
8 A No. 11:04:03
9 Q Did you lose any pay or benefits as a result of 11:04:03
10 the -- any of the prior disciplinary actions we've 11:04:06
11 discussed? 11:04:08
12 A No. 11:04:09
13 Q You agree that this discipline was appropriate for 11:04:10
14 this situation? 11:04:14
15 A Yes. 11:04:16
16 (Defendants' Exhibit S marked.) 11:04:48
17 Q Are you aware of any other time any other employee 11:04:48
18 of St. Mary's has applied duct tape to a resident? 11:04:56
19 A Am I aware of anybody else? 11:05:00
20 Q Any other St. Mary's employee who has restrained a 11:05:01
21 resident using duct tape? 11:05:05
22 A No. 11:05:07
23 Q Is duct tape an approved restraint device? 11:05:13
24 A No. 11:05:18
25 Q What could be the consequence to the facility if a 11:05:21

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1 resident is restrained with an unapproved restraint 11:05:24
2 device? 11:05:28
3 A I'm not sure. 11:05:34
4 Q Can it be noted in a survey? 11:05:36
5 A Please? 11:05:40
6 Q Could that be noted in a survey? 11:05:40
7 A Yes. 11:05:44
8 Q Could that result in any immediate jeopardy 11:05:45
9 citation? 11:05:48
10 A Yes. 11:05:49
11 Q Could that result in a fine to the facility? 11:05:50
12 A Yes. 11:05:53
13 Q That was a serious violation of company rules, was 11:05:54
14 it not? 11:05:57
15 A Yes. 11:05:57
16 Q Could have resulted in your discharge at that time, 11:05:58
17 correct? 11:06:01
18 A Correct. 11:06:01
19 Q But it didn't? 11:06:02
20 A No. 11:06:03
21 Q I've handed you what's been marked as Defendants' 11:06:12
22 Exhibit S. Do you recognize that? 11:06:16
23 A Yes. 11:07:44
24 Q It's a disciplinary action that was issued to you 11:07:44
25 in June of 2010? 11:07:46

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1 A Yes. 11:07:48

2 Q And who issued this to you? 11:07:48

3 A Brandi Slick. 11:07:50

4 Q And what happened that led to this disciplinary 11:07:54

5 action? 11:07:56

6 A I was not doing the schedule, but I got told that 11:07:57

7 I had to take over full responsibility of the 11:08:04

8 schedule. 11:08:07

9 Q Do you agree that discipline was appropriate here? 11:08:07

10 A No. 11:08:10

11 Q Why not? 11:08:10

12 A Because at that time I was not doing the schedule. 11:08:11

13 Q Any other reason? 11:08:20

14 A No. 11:08:25

15 Q Was managing the schedule included in your job 11:08:56

16 description as the department -- as the Director of 11:08:59

17 Nursing? 11:09:21

18 A Managing it, but I was not assigned the duties and 11:09:21

19 I was not assigned to do the schedule at that time. 11:09:26

20 Q Was someone else -- do you claim someone else was 11:09:31

21 assigned to do the schedule? 11:09:34

22 A Yes. 11:09:35

23 Q Who was that? 11:09:35

24 A Gabby was -- Gabby Chavarria was doing the schedule 11:09:36

25 for me. 11:09:40

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1 Q At whose direction? 11:09:40
2 A Mine. 11:09:41
3 Q Okay. So who's -- who is ultimately responsible 11:09:44
4 for scheduling? 11:09:47
5 A I was. 11:09:50
6 (Defendants' Exhibit T marked.) 11:10:19
7 Q I've handed you what's been marked as Defendants' 11:10:19
8 Exhibit T. Do you recognize that? 11:10:23
9 A Yes. 11:10:49
10 Q What is it? 11:10:49
11 A Employee memorandum. 11:10:50
12 Q So it's relating to your decision to leave the 11:10:55
13 Director of Nursing position in July of 2010? 11:11:00
14 A Yes. 11:11:02
15 Q Do you disagree with anything that's in this 11:11:02
16 document? 11:11:07
17 A Yes. 11:11:07
18 Q What? 11:11:08
19 A I did not agree to provide a resignation notice on 11:11:08
20 7-26. 11:11:13
21 Q Well, as I understand it, you just never provided 11:11:16
22 anything on this. 11:11:20
23 A I did not agree to provide one which states here, 11:11:21
24 employee stated. 11:11:25
25 Q And what did you do? If you didn't do that, what 11:11:25

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1 did happen? 11:11:29

2 A I left that Friday evening with all my personal 11:11:30

3 belongings. 11:11:35

4 Q It's July the 23rd of 2010? 11:11:37

5 A Yes. 11:11:44

6 (Defendants' Exhibit U marked.) 11:12:10

7 Q Now I've given you Defendants' Exhibit U. Do you 11:12:10

8 recognize that? 11:12:14

9 A Yes. 11:13:07

10 Q That was issued to you by Lorraine Fischio? 11:13:10

11 A Yes. 11:13:13

12 Q And you refused to sign it? 11:13:13

13 A Yes. 11:13:16

14 Q You agree that discipline was appropriate for this? 11:13:16

15 A No. 11:13:21

16 Q Why not? 11:13:21

17 A Lorraine was putting us over hours. 11:13:22

18 Q In what way? 11:13:28

19 A Having her mother and another RN work extra hours. 11:13:29

20 Q Did you ever raise that issue to anyone before you 11:13:35

21 were issued this disciplinary action? 11:13:39

22 A No. 11:13:40

23 Q I mean, did you raise that issue in response to 11:13:43

24 this disciplinary action? 11:13:45

25 A Yes. 11:13:46

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1 Q How so? 11:13:47

2 A I said I refused to sign because I wasn't the one 11:13:49

3 putting us over on hours. 11:13:55

4 Q Under employee's comments, where it says "Have not 11:13:56

5 received labor report since June 6th" -- 11:13:59

6 A Right. 11:14:01

7 Q -- whose handwriting is that? 11:14:02

8 A Mine. 11:14:03

9 Q As the Director of Nursing, you're responsible for 11:14:04

10 staffing the nursing department? 11:14:19

11 A Yes. 11:14:20

12 Q Responsible for the budget of the nursing 11:14:21

13 department? 11:14:24

14 A Yes. 11:14:24

15 Q And so that labor report would be something that 11:14:24

16 would be essential to understanding those staffing 11:14:27

17 levels, correct? 11:14:30

18 A Correct. 11:14:30

19 Q And you knew how to request one, correct? 11:14:31

20 A Right. 11:14:34

21 Q Are you aware of any other employee who was 11:14:36

22 involved in a situation like this? 11:14:39

23 A Not to my knowledge. 11:14:45

24 (Defendants' Exhibit V marked.) 11:15:12

25 Q I've handed you what's been marked as Defendants' 11:15:12

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1	Exhibit V. Do you recognize that?	11:15:15
2	A Yes.	11:15:21
3	Q And Ms. Fischio issued this disciplinary action to	11:15:47
4	you?	11:16:32
5	A I take that back. I do not recognize this. I	11:16:32
6	looked at the dates. There's -- I never saw that	11:16:36
7	before.	11:16:45
8	Q You've never seen this document before?	11:16:45
9	A No.	11:16:47
10	Q Do you ever recall Ms. Fischio issuing you a final	11:16:49
11	written warning --	11:16:54
12	A No.	11:16:54
13	Q -- in July of 2012 or otherwise?	11:16:55
14	A No.	11:16:57
15	Q Do you recall Ms. Fischio placing you on an action	11:16:58
16	plan to work on employee relations, respect,	11:17:02
17	communication issues?	11:17:04
18	A No.	11:17:05
19	Q Do you deny that you were ever placed on any such	11:17:06
20	plan?	11:17:10
21	A Yes.	11:17:11
22	Q Do you deny that you were ever issued this	11:17:11
23	document?	11:17:13
24	A Yes.	11:17:14
25	(Defendants' Exhibit W marked.)	11:17:43

(Defendants' Exhibit W marked.)

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1 Q I'm handing you what's been marked as Defendants' 11:17:43
2 Exhibit W. Do you recognize that? 11:17:45
3 A No. 11:17:57
4 Q Were you -- do you deny that you were ever issued 11:17:58
5 that disciplinary action by Ms. Fischio? 11:18:05
6 A Yes. 11:18:08
7 Q Were you ever issued a first written warning by 11:18:13
8 Ms. Fischio in July of 2012? 11:18:18
9 A I deny it. 11:18:22
10 Q As a result of any of the disciplinary actions 11:18:26
11 we've reviewed -- we've reviewed, did you lose -- 11:18:33
12 ever lose any pay or benefits? 11:18:36
13 A No. 11:18:39
14 Q Are you aware of any other employees who were 11:18:45
15 involved in situations similar to the ones that 11:18:47
16 we've reviewed in these disciplinary actions? 11:18:49
17 A Please repeat that. 11:18:54
18 Q Are you aware of any other employees who were 11:18:55
19 involved in situations similar to the ones that are 11:18:57
20 involved in these disciplinary actions? 11:19:00
21 A No. 11:19:02
22 Q Were you ever issued any other disciplinary action 11:19:06
23 that we did not review here today? 11:19:09
24 A No. 11:19:11
25 Q Were you ever put on a formal performance 11:19:12

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1 improvement plan? 11:19:14
2 A Yes. Brandi Slick. 11:19:16
3 (Defendants' Exhibit X marked.) 11:19:37
4 Q I'm handing you what's been marked as Defendants' 11:19:37
5 Exhibit X. Do you recognize that? 11:19:39
6 A Yes. 11:20:45
7 Q And this was issued to you by Ms. Slick? 11:20:46
8 A Yes. 11:20:48
9 Q In May of 2010? 11:20:50
10 A Yes. 11:20:52
11 Q You agree that this performance improvement plan 11:20:52
12 was appropriate? 11:20:57
13 A No. 11:20:58
14 Q Why not? 11:20:58
15 A Brandi was there barely a month. How does she know 11:20:59
16 monthly reports weren't getting done on a timely 11:21:14
17 basis? How did she know a lot of this? 11:21:16
18 Q Any other reason? 11:21:18
19 A Because things were getting done. 11:21:28
20 Q Any other reason? 11:21:31
21 A No. 11:21:32
22 (Defendants' Exhibit Y marked.) 11:22:01
23 Q I've given you now what's been marked as 11:22:01
24 Defendants' Exhibit Y. Do you recognize that? 11:22:04
25 MR. FRANKLIN: Go ahead and look at 11:22:11

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1 St. Mary's? 11:26:57

2 A Not this one. 11:27:01

3 Q Either X or Y, after it was issued to you on 11:27:03

4 May 25th -- 11:27:09

5 A This one here. 11:27:09

6 Q -- did you ever review it with anyone? 11:27:10

7 A No. 11:27:13

8 Q You reviewed it with Ms. Slick on May 25th, but you 11:27:13

9 claim that you did not review it at any time 11:27:17

10 thereafter? 11:27:19

11 A No. 11:27:20

12 (Defendants' Exhibit Z marked.) 11:27:48

13 Q I've handed you what's been marked as Defendants' 11:27:48

14 Exhibit Z. Have you ever seen this document 11:27:52

15 before? Pardon? 11:27:54

16 A I didn't say anything. No, I didn't sign it. 11:28:05

17 Q So you've never seen this document before? 11:29:11

18 A No. 11:29:14

19 Q Did you ever meet with Ms. Fischio to discuss these 11:29:14

20 performance items on or around July 18th, 2012? 11:29:21

21 A Not to my knowledge. 11:29:25

22 Q Did Ms. Fischio meet with you and talk with you 11:29:29

23 about any of the things covered in this document at 11:29:33

24 any time in July of 2012? 11:29:36

25 A Not to my knowledge. 11:29:38

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1 Q During the time you reported to Ms. Fischio, was 11:29:41
2 there any other time that she provided you any 11:29:51
3 formal counseling as to your performance? 11:29:53
4 A Not -- I don't remember if she did. 11:29:59
5 Q Was there any time at which you met with her and 11:30:03
6 she addressed performance issues that you needed to 11:30:05
7 address? 11:30:09
8 A I don't remember. 11:30:20
9 (Defendants' Exhibit AA marked.) 11:30:40
10 Q I've given you what's been marked as Defendants' 11:30:40
11 Exhibit AA. Have you ever seen this document 11:30:44
12 before? 11:30:47
13 A Yes. 11:32:42
14 Q When did you see this document first? 11:32:44
15 A When I reviewed all the information you have sent. 11:32:47
16 Q So you were never provided with this document 11:32:51
17 during your employment? 11:32:53
18 A No. 11:32:54
19 Q This is -- the document appears to be signed by 11:32:55
20 Ms. Fischio relating to a conversation she had with 11:32:58
21 you on November 14th, 2011, correct? 11:33:02
22 MR. FRANKLIN: I'm going to object. 11:33:05
23 My copy doesn't have a signature on it. 11:33:06
24 A Huh-uh. 11:33:06
25 MR. GARRISON: It's got a name at 11:33:08

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1 the bottom of it. It says Lorraine 11:33:10
2 Fischio. 11:33:11
3 MR. FRANKLIN: All right. I didn't 11:33:11
4 see a signature. 11:33:12
5 Q It relates to a meeting she had with you on 11:33:12
6 November 14th, 2011, correct? 11:33:18
7 A Please repeat the question. 11:33:24
8 Q The document relates to a meeting between you and 11:33:25
9 Ms. Fischio on November 14th, 2011, correct? 11:33:28
10 A I don't remember a meeting, no. 11:33:33
11 Q So you don't -- that's what the document relates to 11:33:35
12 though, correct? 11:33:38
13 A I don't remember a meeting. 11:33:43
14 Q Okay. My question is different than that. My 11:33:49
15 question is about what the document relates to. 11:33:52
16 The document says, on this date, November 14th, 11:33:56
17 2011, at approximately 11:30 a.m. I met with Jane 11:34:00
18 Fiely, RN, DON, to discuss several serious issues 11:34:05
19 that need immediate attention, correct? 11:34:09
20 A Correct. 11:34:10
21 Q Do you recall actually meeting -- 11:34:10
22 A No. 11:34:10
23 Q -- with Ms. Fischio on that date? You'll have -- 11:34:12
24 MR. FRANKLIN: You have to -- 11:34:15
25 Q -- to answer once my question is finished. 11:34:16

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1 A No. 11:34:19

2 Q Did you meet with Ms. Fischio at any time in 11:34:19

3 November 2011 to address the issues that are 11:34:29

4 summarized in this document? 11:34:33

5 A No. 11:34:36

6 Q Did Ms. Fischio ever talk to you about staff 11:34:38

7 turnover? 11:34:44

8 A Yes. 11:34:48

9 Q Did she cover with you the issues that are covered 11:34:52

10 in this document? 11:34:55

11 A No. 11:34:56

12 Q Did she talk with you about taking an interest in 11:35:04

13 the well-being of your new staff? 11:35:07

14 A No, I don't remember. 11:35:24

15 Q Did she talk with you at any time about rewriting 11:35:28

16 incident statements? 11:35:37

17 A No. 11:35:44

18 Q Did she talk with you at any time about the 11:35:50

19 Activity Director's concerns about your behavior 11:35:53

20 toward her? 11:35:57

21 A Yes. 11:35:58

22 Q And is the depiction in this document an accurate 11:36:00

23 reflection of what Ms. Fischio told you about that? 11:36:04

24 A Yes. 11:36:08

25 Q Is there anything else about this document that you 11:36:09

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1 claim is inaccurate? 11:36:26

2 A Regarding Dr. Holleran, regarding Ken Freeman, and 11:36:38

3 in regarding me being stressed about survey was 11:38:13

4 right around the corner. That's not completely 11:38:17

5 true. 11:38:20

6 Q How is it not completely true? 11:38:20

7 A Yes, I was stressed because everybody is stressed 11:38:25

8 when survey is coming, but the rest of it is not 11:38:47

9 true. 11:38:50

10 Q Anything else you disagree with? 11:38:55

11 MR. FRANKLIN: Go -- if you can 11:38:57

12 go -- you said you've never seen the 11:38:58

13 document. Go paragraph by paragraph and 11:39:00

14 tell him what you agree -- or disagree -- 11:39:03

15 or anything else you disagree with. 11:39:48

16 A During room moves, nursing does not routinely give 11:39:48

17 input. I don't agree with that. 11:39:54

18 Q What else? 11:40:00

19 A The one with Dr. Holleran, one of our medical 11:40:02

20 directors. 11:40:05

21 Q Why do you disagree with that? 11:40:08

22 A He is my family doctor and I think he would have 11:40:25

23 said something to me. 11:40:28

24 Q Any other reason you disagree with that? 11:40:31

25 A I don't think that happened. 11:40:33

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1 Q Any other reason? 11:40:38

2 A No. 11:40:45

3 Q Anything else you disagree with in this document 11:40:46

4 that we haven't already covered? 11:40:49

5 A I also advised her not to ever request anything to 11:41:10

6 be rewritten, it is for in-house report. 11:41:15

7 Q I don't understand. You acknowledge that 11:41:27

8 Ms. Fischio covered that with you? 11:41:31

9 A No, she didn't. You asked me what I agreed and 11:41:31

10 disagreed in this report. 11:41:36

11 Q Anything else you disagree with on the report? 11:41:38

12 A I disagree that I ever said if the nurses are too 11:42:25

13 busy to do it, so am I. 11:42:28

14 Q Anything else? 11:42:32

15 A No. 11:42:51

16 (Defendants' Exhibit BB marked.) 11:43:13

17 Q I've given you now what's been marked as 11:43:13

18 Defendants' Exhibit BB. Have you ever seen that 11:43:16

19 document before? 11:43:18

20 A I never saw this document, but some things she 11:44:01

21 talked to me about. 11:44:05

22 Q Which of these things did she talk with you about? 11:44:08

23 A The alleged -- allegation I had alcohol on my 11:44:11

24 breath at work. 11:44:14

25 Q Anything else? 11:44:16

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1 A Huh-uh. 11:44:18

2 Q So you deny that Ms. Fischio covered any of these 11:44:20

3 other issues with you? 11:44:26

4 A I never saw this form before. 11:44:27

5 Q Apart from never seeing the form before, you 11:44:29

6 mentioned the third paragraph, she discussed that 11:44:35

7 allegation with you; is that accurate? 11:44:37

8 A Yes, she discussed that with me. 11:44:42

9 Q Did she discuss any of the other issues covered in 11:44:44

10 this document with you? 11:44:47

11 A Yes, at one time she discussed some of these things 11:46:45

12 with me. 11:46:49

13 Q Which ones? 11:46:49

14 A I'm not going to say it was for the third time, but 11:46:51

15 we discussed assisted living aides charting. 11:46:56

16 Q What else? 11:47:03

17 A The drinking, which I don't even drink. And 11:47:06

18 number 4 we discussed. 11:47:35

19 Q Number 4, that you agreed to hold your staff 11:47:40

20 accountable for their individual activities and 11:47:44

21 deficits? 11:47:44

22 A Yes. 11:47:48

23 Q And that you will not publicly chastise or 11:47:48

24 embarrass an employee in public? 11:47:50

25 A But this did not happen on this date. 11:47:52

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1 Q When did that happen? 11:47:56
2 A At different times. 11:47:58
3 Q When? 11:48:00
4 A It did not all happen the same day. 11:48:01
5 Q When did you agree to number 4? 11:48:05
6 A I cannot give you a certain date, a time, but this 11:48:09
7 did not come about at one time. 11:48:14
8 Q When did you discuss the allegation of alcohol on 11:48:15
9 your breath? 11:48:20
10 A She called me in and said there was an allegation. 11:48:21
11 Q When was it? 11:48:24
12 A I don't know. 11:48:25
13 Q When did you discuss assisted living aides charting 11:48:27
14 in nurse's notes on AL patients? 11:48:32
15 A I can't give you dates. 11:48:34
16 Q Okay. So you say they weren't all addressed on 11:48:36
17 January 17th -- 11:48:38
18 A No. 11:48:38
19 Q -- 2012? 11:48:40
20 A No. 11:48:40
21 Q You'll have to wait until I'm finished with my 11:48:40
22 question. 11:48:43
23 A Sorry. 11:48:43
24 Q Is there anything else summarized in this document 11:48:44
25 that Ms. Fischio did cover with you? 11:48:53

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1 A No. 11:49:04
2 Q During the time you worked at St. Mary's, did you 11:49:17
3 ever bring any issues or complaints to HR or 11:49:20
4 management's attention? 11:49:24
5 A No. 11:49:28
6 Q And when you worked at St. Mary's, were there -- 11:49:30
7 you knew there were policies and procedures in 11:49:47
8 place if you wanted to take a leave of absence? 11:49:50
9 A Yes. 11:49:52
10 Q A medical leave or other type of leave? 11:49:52
11 A Yes. 11:49:57
12 Q And other employees at St. Mary's took leaves of 11:49:58
13 absence while you were the Director of Nursing 11:50:03
14 there? 11:50:05
15 A Are you talking about FMLA? 11:50:05
16 Q Medical leave or otherwise. 11:50:07
17 A Would you re -- FMLA. 11:50:10
18 Q You understand that employees took FMLA leaves 11:50:13
19 while you worked there? 11:50:16
20 A Yes. 11:50:17
21 Q Did you ever request a leave of absence or tell 11:50:17
22 St. Mary's that you needed to take a leave of 11:50:22
23 absence during your employment? 11:50:24
24 A Take FMLA? 11:50:26
25 Q Yes. 11:50:27

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1 A No, I never took FMLA. 11:50:28

2 Q Did you ever tell anyone at St. Mary's or anyone 11:50:29

3 affiliated with Atrium or Essex that you needed to 11:50:33

4 take FMLA leave? 11:50:36

5 A No. 11:50:38

6 Q Did anyone ever discourage you from using FMLA 11:50:41

7 leave? 11:50:46

8 A No. 11:50:47

9 Q Did anyone say anything negative about FMLA leave? 11:50:48

10 A No. 11:50:52

11 Q Did anyone ever say anything to you to suggest that 11:50:52

12 St. Mary's thought it was a problem if you had 11:50:59

13 taken FMLA leave? 11:51:03

14 A No. 11:51:07

15 Q Or if you had requested FMLA leave? 11:51:07

16 A Repeat that last question. 11:51:11

17 Q Did anyone ever say anything to you to suggest that 11:51:13

18 St. Mary's thought it was a problem if you 11:51:16

19 requested a medical leave or an FMLA leave? 11:51:19

20 A If I requested? 11:51:22

21 Q Yes. 11:51:23

22 A No. 11:51:24

23 Q Or anyone requested FMLA leave? 11:51:24

24 A No. 11:51:42

25 Q Did anyone at St. Mary's say anything negative to 11:51:44

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1 you about taking leaves of absence, FMLA related or 11:51:47
2 otherwise? 11:51:51

3 A No. 11:52:09

4 MR. GARRISON: It's about -- I've 11:52:28

5 got like 5 to 12. 11:52:28

6 MR. FRANKLIN: Yeah. 11:52:29

7 MR. GARRISON: Do you want to take a 11:52:31

8 lunch break? 11:52:31

9 MR. FRANKLIN: Yeah. 11:52:32

10 (Lunch recess taken.) 12:41:52

11 VIDEOGRAPHER: On record. 12:41:53

12 Q All right. Ms. Fiely, we're back now after a 12:41:54
13 break. You understand all of the instructions and 12:41:58
14 guidelines we went through at the beginning of the 12:42:00
15 deposition still apply now? 12:42:04

16 A Yes. 12:42:06

17 Q Before the break, we went through several of your 12:42:06
18 performance reviews, correct? 12:42:09

19 A Correct. 12:42:11

20 Q Would you characterize those reviews as positive? 12:42:11

21 A Yes. 12:42:15

22 Q All of them? 12:42:15

23 A Yes. 12:42:16

24 Q We also went through some statements that were -- 12:42:20
25 appear to have been drawn up by Lorraine Fischio, 12:42:24

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		Page 88
1	correct?	12:42:28
2	A Correct.	12:42:29
3	Q And you made the claim that Ms. Fischio did not	12:42:30
4	address some of those -- the issues that were in	12:42:34
5	those statements directly with you, correct?	12:42:37
6	A Correct.	12:42:39
7	Q Why do you believe Ms. Fischio included those	12:42:40
8	statements in those documents if she didn't cover	12:42:43
9	them with you?	12:42:46
10	MR. FRANKLIN: Objection. Go ahead	12:42:47
11	and answer.	12:42:48
12	THE WITNESS: Go ahead and answer?	12:42:50
13	MR. FRANKLIN: If you can.	12:42:52
14	A I cannot -- I don't -- I cannot read her mind.	12:42:53
15	Q So you don't know?	12:42:58
16	A I cannot read her mind.	12:43:10
17	Q You don't have any belief as to why she would have	12:43:12
18	included those statements if she didn't actually	12:43:15
19	cover them with you?	12:43:17
20	A No.	12:43:18
21	(Defendants' Exhibit CC marked.)	12:43:46
22	Q I've given you what's been marked as Defendants'	12:43:46
23	Exhibit CC. Do you recognize that?	12:43:51
24	A Yes.	12:47:07
25	Q What is it?	12:47:08

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1 A My notebook. 12:47:09
2 Q And this is your handwriting throughout? 12:47:13
3 A Not throughout. 12:47:15
4 Q Who else has handwriting in this document? 12:47:18
5 A I don't know, but this is not my handwriting on 12:47:20
6 January 2013. 12:47:27
7 Q On January 23rd, 2013? 12:47:31
8 A Yes. 12:47:38
9 Q Whose handwriting is that? 12:47:38
10 A I don't know. 12:47:40
11 Q This is your note -- your calendar? 12:47:41
12 A Yes, the book is. 12:47:43
13 Q But you have no idea whose handwriting that would 12:47:48
14 be? 12:47:50
15 A No, I don't. 12:47:50
16 Q It's accurate that you produced this to the company 12:47:52
17 during the course of this litigation? 12:47:54
18 A Please? 12:47:58
19 Q You produced this to the company during the course 12:47:58
20 of this litigation? 12:48:00
21 A I produced it to my lawyer. 12:48:03
22 Q Is this on the original that's still in your 12:48:08
23 possession, this handwriting? 12:48:11
24 A I don't have the original. 12:48:15
25 Q Who does? 12:48:17

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1 A My lawyer. 12:48:19
2 Q Was it on the original when you gave it to your 12:48:20
3 lawyer? 12:48:23
4 A I -- no, I don't know. 12:48:23
5 Q Are there any other locations that you notice 12:48:29
6 that -- where this is not your handwriting? 12:48:34
7 A January 28th, Monday. 12:48:45
8 Q Do you know whose handwriting that is? 12:48:54
9 A No, I don't. 12:48:58
10 Q Was that handwriting present when you produced this 12:48:59
11 to your lawyers? 12:49:02
12 A Yes. 12:49:04
13 Q It was? 12:49:09
14 A (Indicating.) 12:49:10
15 Q Who else had access to this notebook? 12:49:13
16 A I kept it in my office. I don't know who else -- 12:49:17
17 anybody could have had access to it. 12:49:24
18 Q You kept this in your office at work? 12:49:28
19 A Yes. 12:49:30
20 Q Are there any other locations where your 12:49:31
21 handwriting -- I'm sorry, I'll rephrase it. 12:49:38
22 Are there any other places in the notebook 12:49:42
23 where it's not your handwriting? 12:49:44
24 A No. 12:49:46
25 Q It starts on April 2013 and ends in -- at the -- it 12:49:50

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1 looks like the end of January 2013. Where are the 12:49:57
2 months of February and April? 12:50:02

3 A This book only went this far. It was like half 12:50:04
4 season. 12:50:10

5 Q Well, there are tabs here on the left you see for 12:50:11
6 March and February? Do you see that there are tabs 12:50:14
7 for March and February? 12:50:29

8 A Yes. 12:50:30

9 Q Were there pages behind those tabs for March and 12:50:31
10 February in this notebook? 12:50:35

11 A I see there are tabs. 12:51:03

12 Q I'm asking in your original copy that you kept, 12:51:05
13 were there pages behind those tabs for February and 12:51:08
14 March? 12:51:11

15 A Yes. 12:51:21

16 MR. FRANKLIN: Clearly the document 12:51:30
17 isn't just a 2013 document. There's 2012 12:51:31
18 and 2013. 12:51:36

19 A It was a half -- half this book was 2 -- was one -- 12:51:39
20 past year and this is -- was -- 12:51:44

21 Q I understand that. Did you provide your lawyers 12:51:46
22 the months of March and February of 2013 as well? 12:51:48
23 Let me rephrase that question. 12:52:06

24 Did you remove any pages from this 12:52:08
25 complete notebook before you provided it to your 12:52:11

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1 lawyers? 12:52:13

2 A I did not remove anything. 12:52:14

3 Q Were there complete calendars and entries for each 12:52:17

4 date in each month listed on the side here when you 12:52:22

5 provided it to your lawyers? 12:52:27

6 A No. 12:52:28

7 Q Which months were missing or dates were missing? 12:52:29

8 A There are no dates missing. As you can see, here's 12:52:33

9 2012. 2012, September. 12:53:23

10 MR. GARRISON: Could we go off the 12:53:30

11 record for a second? 12:53:31

12 (Discussion held off the record.) 12:53:55

13 VIDEOGRAPHER: On record. 12:53:55

14 Q Let's go back to the front page of this document, 12:53:57

15 Ms. Fiely. It's a calendar for April of 2013, 12:54:00

16 correct? 12:54:06

17 A Correct. 12:54:06

18 Q And that's your handwriting on that page? 12:54:07

19 A Yes. 12:54:09

20 Q When did you record this? 12:54:09

21 A As it happens. 12:54:19

22 Q Okay. So, for example, on April 19th it says 12:54:21

23 incident Atrium. When did you record that? 12:54:24

24 A Probably on the 23rd. 12:54:39

25 Q You mention that this book resided in your office 12:54:47

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1 at St. Mary's? 12:54:51

2 A While I worked there, but I also took it home with 12:54:53

3 me. 12:54:57

4 Q So you took it to and from? 12:54:57

5 A Yes. 12:54:59

6 Q Home to work every day? 12:55:00

7 A Yes. Yes. I do that now. 12:55:01

8 Q Let's talk about the events of April 19th. What 12:55:09

9 hours did you work that day? 12:55:12

10 A 19th, 8:00 in the morning and it was 5:30 when I 12:55:14

11 was trying to go home. 12:55:23

12 Q Your calendar says incident Atrium, correct? 12:55:27

13 A Right. 12:55:31

14 Q What does that mean? 12:55:32

15 A The incident that happened that day. 12:55:41

16 Q What was that incident? 12:55:47

17 A Reviewing a resident's rights with the staff that 12:56:07

18 evening. 12:56:11

19 Q Anything else? 12:56:12

20 A That's what that incident means, that I had an 12:56:13

21 incident trying to review resident's rights. 12:56:17

22 Q Did anything else happen? Well, let me back up. 12:56:22

23 What time did you do that with that employee? 12:56:24

24 A Around 5:30. 12:56:30

25 Q And what employee was that? 12:56:37

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1 A Kelsey and Jill was there. 12:56:38
2 Q What's Kelsey's last name? 12:56:42
3 A Quellhorst. 12:56:44
4 Q And where did that take place? 12:56:47
5 A In the hallway. 12:56:51
6 Q Which hallway? 12:56:53
7 A 300 Hall. 12:56:54
8 Q Whereabouts in that hallway? 12:56:57
9 A Almost at the exit door to leave. 12:56:59
10 Q How far away? 12:57:11
11 A I don't know. 12:57:13
12 Q Approximate, please. 12:57:15
13 A I -- I don't know. 12:57:25
14 Q Who was present for that besides you and 12:57:30
15 Ms. Quellhorst? 12:57:32
16 A Jill Rowen. 12:57:41
17 Q Pardon me? 12:57:45
18 A Jill Rowen. 12:57:45
19 Q Where was she located? 12:57:48
20 A Standing next to me. 12:57:50
21 Q Can you spell her last name, please. 12:57:50
22 A R-o-w-e-n. 12:57:53
23 Q How far away from you was she? 12:57:55
24 A Standing next to me. 12:57:57
25 Q And what was her position? 12:57:58

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1 A She's an LPN. 12:57:59

2 Q Who else was present? 12:58:02

3 A Ciera. 12:58:09

4 Q And where was she located? 12:58:11

5 A Standing next to Jill. 12:58:15

6 Q And how far away from Jill? 12:58:18

7 A Standing next to her. 12:58:20

8 Q Are you talking a matter of two feet or less? 12:58:23

9 A Approximately, yes. 12:58:33

10 Q And was Jill the same distance from you? 12:58:35

11 A Yes. 12:58:37

12 Q How far were you from Kelsey? 12:58:39

13 A I was standing in front of her. 12:58:42

14 Q How far away? 12:58:44

15 A Three, four feet. 12:58:48

16 Q Were you farther away from Kelsey than Jill was 12:58:51
17 from you? 12:58:55

18 A Yes. 12:58:56

19 Q Were you facing Kelsey? 12:58:58

20 A Facing, yes. 12:59:00

21 Q Which way was Jill facing? 12:59:02

22 A We were standing in a circle basic -- we were 12:59:08
23 standing in a circle. I was facing Kelsey, Jill 12:59:11
24 was next to me and Ciera was there. 12:59:13

25 Q Where were you located in the hallway? 12:59:16

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1 A Close to the exit door and the dining room door. 12:59:29
2 Q No, were you against a wall, were you in the middle 12:59:36
3 of the hallway, were you closer to a wall than the 12:59:40
4 middle? Where were you located in the hallway? 12:59:45
5 A Can you change the wording? I'm not sure -- 12:59:48
6 Q How far away were you from the wall? 12:59:54
7 A If I was -- about like from here to there. 12:59:57
8 Q How far is that? 12:59:59
9 A Four feet. 13:00:04
10 Q And how far was Kelsey from the wall? 13:00:05
11 A She was standing next -- she was standing 13:00:09
12 approximately where this lady is. 13:00:13
13 Q So she was not against the wall, she have standing 13:00:17
14 away from the wall? 13:00:19
15 A She was closer to the wall. 13:00:32
16 Q Who else was present? 13:00:37
17 A Jill and Ciera. 13:00:39
18 Q Anyone else? 13:00:40
19 A I don't -- no. 13:00:42
20 Q Resident's rights document is one of the most 13:00:48
21 important documents to a long-term care facility, 13:00:52
22 correct? 13:00:55
23 A Correct. 13:00:56
24 Q And there unfortunately are many times when you 13:00:56
25 need to address an employee about a resident's 13:01:02

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1 rights, correct? 13:01:05

2 A Correct. 13:01:06

3 Q How often would you say you needed to do that 13:01:06

4 whether to counsel an employee, to remind an 13:01:10

5 employee, or just to address a content of 13:01:14

6 resident's rights? 13:01:18

7 A Daily. 13:01:19

8 Q You needed to do it daily? 13:01:21

9 A (Indicating.) 13:01:23

10 Q What was significant about this incident that you 13:01:24

11 listed it as an incident? 13:01:27

12 MR. FRANKLIN: Answer out loud. 13:01:29

13 MR. GARRISON: I'm asking a 13:01:31

14 question. 13:01:31

15 MR. FRANKLIN: I'm just asking her 13:01:32

16 to answer out loud. 13:01:33

17 MR. GARRISON: Okay. Thank you. 13:01:34

18 Q What was significant about this incident in which 13:01:34

19 you reviewed the resident's rights that was 13:01:38

20 different from any other incident? 13:01:40

21 A Because the family asked me why her daughter 13:01:47

22 couldn't -- why her mother couldn't eat in her 13:01:54

23 room. 13:01:56

24 Q And that was a resident's rights issue? 13:01:59

25 A Exactly. 13:02:02

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1 Q And you said you addressed those issues daily? 13:02:03
2 A Yes. 13:02:06
3 Q But there is no other place in this calendar where 13:02:07
4 it says incident, correct? 13:02:11
5 A I didn't write everything down. 13:02:16
6 Q So -- but there was something about this incident 13:02:20
7 that made you log it as an incident in this 13:02:23
8 document. What was different about this incident 13:02:27
9 from the daily consultations you had with employees 13:02:33
10 about resident's rights? 13:02:36
11 A Because Lorraine called me the next morning and 13:02:43
12 said there was the incident. 13:02:46
13 Q That's not my question. What made -- what made you 13:02:47
14 record it as an incident? You said it was because 13:02:50
15 you had to consult someone about a resident's 13:02:53
16 rights. Why was this consultation about resident's 13:02:56
17 rights different from your other daily 13:03:00
18 consultations about resident's rights? 13:03:02
19 A Like I said, Lorraine called me the next day and 13:03:52
20 said about the incident that happened the night 13:03:56
21 before, that's why I documented incident. 13:03:58
22 Q So tell me again what happened from beginning to 13:04:01
23 end during that incident. 13:04:06
24 A I was walking down the hall ready to leave and the 13:04:11
25 aide stopped me and asked me if I would talk to the 13:04:20

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1 daughter. 13:04:23

2 Q What aide? 13:04:23

3 A I really don't remember. 13:04:30

4 Q Continue. 13:04:37

5 A So I went in and talked to her, and the daughter 13:04:38

6 said she didn't understand why her -- they were 13:04:43

7 wanting her to eat in the dining room. I said she 13:04:49

8 does not have to eat in the dining room, resident's 13:04:51

9 rights, can eat where she wants. And she said -- 13:04:55

10 told me that Kelsey had told her that. 13:04:58

11 So I asked Kelsey why she told her that 13:05:00

12 and I tried to review resident's rights with her. 13:05:03

13 Q What did you say specifically to Kelsey when you 13:05:06

14 encountered her in the hallway? 13:05:11

15 A It's the resident's right to eat where they want 13:05:14

16 to. 13:05:17

17 Q Did you say anything else? 13:05:17

18 A She told me the reason she did was because she was 13:05:19

19 told that Jane and Gabby wanted it that way, that 13:05:24

20 she eat in the dining room. Again, I said, but 13:05:30

21 it's a resident's right to eat where they want to. 13:05:32

22 Q What happened next? 13:05:41

23 A She -- it didn't seem to get through to her, and 13:05:45

24 then Jill walked down the hallway with me and I 13:05:54

25 asked Jill, please will you discuss it with the 13:05:57

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1 whole staff later on in the evening when everything 13:06:01
2 is quiet, about resident's rights. 13:06:03
3 Q Did you have any other interaction with Kelsey that 13:06:08
4 day? 13:06:11
5 A No. 13:06:11
6 Q What was the tone of voice when you spoke with her? 13:06:12
7 A Quiet. 13:06:16
8 Q Your voice was quiet? 13:06:24
9 A We both were at -- yes. 13:06:26
10 Q You were counseling her, correct? 13:06:30
11 A Yes. 13:06:32
12 Q Why were you counseling her in the hallway in front 13:06:33
13 of other employees? 13:06:38
14 A Because it was not all other employees. It was 13:06:39
15 originally just Kelsey and me and I just told her, 13:06:43
16 I -- about resident's rights. 13:06:46
17 Q How long was it just Kelsey and you? 13:06:48
18 A I -- I don't know. 13:06:51
19 Q Well, when did Jill and Ciera come up? 13:06:53
20 A Jill came up to ask me a question about something 13:06:56
21 with the medications. 13:06:59
22 Q Well, how long was your interaction with Kelsey 13:07:01
23 then? 13:07:04
24 A I -- I don't know. 13:07:05
25 Q How much of that interaction was Jill present for? 13:07:13

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1 A Most of it. 13:07:21
2 Q And how much of it was Ciera present for? 13:07:23
3 A I don't know. 13:07:26
4 Q Were they present when you counselled her on the 13:07:28
5 resident's rights issues you mentioned? 13:07:33
6 A I originally said to Kelsey alone it's a resident's 13:07:36
7 right, it doesn't -- and where does she get the 13:07:41
8 information that me and Gabby had said such a 13:07:44
9 thing. And she told me from a lady in the kitchen. 13:07:47
10 Q This is just when Kelsey is present? 13:07:51
11 A Yes. 13:07:53
12 Q Now, when -- Jill and Ciera came up after that? 13:07:54
13 A Yes. 13:07:58
14 Q What did you say to Kelsey when Jill and Ciera were 13:07:58
15 present? 13:08:03
16 A I think we were still talking about the same issue 13:08:03
17 about resident's rights. 13:08:08
18 Q So that brings me back to my original question, why 13:08:12
19 did you counsel an employee on resident's rights in 13:08:15
20 a hallway in front of other employees? 13:08:19
21 A I don't think it hurt for all of them to hear about 13:08:30
22 resident's rights. 13:08:32
23 Q Any other reason? 13:08:36
24 A No. 13:08:37
25 Q You said you spoke in a quiet tone of voice? 13:08:39

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1 A As I remember, yes. 13:08:50

2 Q During the entirety of your interaction with Kelsey 13:08:51

3 Quellhorst your voice was quiet? 13:08:55

4 A To my knowledge, yes. 13:08:58

5 Q You understand other individuals have reported to 13:09:10

6 the company that your voice was not quiet, that you 13:09:14

7 in fact yelled at Ms. Quellhorst? 13:09:16

8 A Yes, I read the statements. 13:09:21

9 Q Why would they report that if you in fact were 13:09:24

10 talking quietly? 13:09:28

11 MR. FRANKLIN: Objection. Go ahead 13:09:29

12 and answer. 13:09:31

13 A I can't read their minds, why they did that. 13:09:31

14 Q Did you ever make physical contact with 13:09:35

15 Ms. Quellhorst? 13:09:43

16 A No. 13:09:45

17 Q You claim that Ms. Quellhorst raised her voice to 13:09:45

18 you? 13:09:50

19 A Yes. 13:09:50

20 Q At what point did she raise her voice to you? 13:09:58

21 A Right before I left. I -- as I walked down the 13:10:01

22 hallway with Jill, I told Jill maybe you can talk 13:10:09

23 to her about resident's rights because I'm not able 13:10:12

24 to get through to her. 13:10:15

25 Q Well, at what point did Ms. Quellhorst raise her 13:10:18

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1 voice to you? 13:10:21

2 A After the other -- after Jill and Ciera showed up. 13:10:22

3 Q What did she say? 13:10:43

4 A She said that she only did what Liz in dietary told 13:10:44

5 her to do. And I said, well, you -- Liz is not 13:10:53

6 your boss and you got to understand resident's 13:10:57

7 rights, residents can eat where they want to. I 13:11:01

8 expressed that several times. 13:11:04

9 Q And although she raised her voice to you, you claim 13:11:07

10 that you did not raise your voice then in turn to 13:11:11

11 her? 13:11:14

12 A Yes. 13:11:14

13 Q Did anything else occur during that incident? 13:11:17

14 A No. 13:11:23

15 Q Have you now told me everything you can recall 13:11:24

16 about that incident? 13:11:27

17 A I've told you everything that I can recall. 13:11:28

18 Q Did you ever report to anyone with St. Mary's that 13:11:30

19 Kelsey Quellhorst had raised her voice to you? 13:11:37

20 A No. 13:11:41

21 Q She -- you were a -- she was in a reporting 13:11:45

22 relationship to you, correct; you supervised her? 13:11:51

23 A Right. 13:11:54

24 Q And raising your voice to a supervisor is 13:11:54

25 inappropriate, correct? 13:11:57

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1 A Correct. 13:11:58

2 Q You never reported to anyone that -- or disciplined 13:11:59

3 her for doing so, correct? 13:12:02

4 A I did not because I was off the next several days 13:12:04

5 sick. 13:12:07

6 Q Had you ever contacted anyone with St. Mary's to 13:12:11

7 inform them that you would be disciplining her for 13:12:16

8 that? 13:12:18

9 A No. I called in sick. 13:12:18

10 Q Did anyone from St. Mary's contact you to discuss 13:12:22

11 that incident you just told us about? 13:12:24

12 A Lorraine did and Bob Hueneford did. 13:12:27

13 Q When did Lor -- anyone else first? 13:12:32

14 A Please? 13:12:35

15 Q Did anyone else contact you to discuss that 13:12:35

16 incident? 13:12:38

17 A No. 13:12:38

18 Q When did Lorraine contact you? 13:12:39

19 A Saturday morning. 13:12:42

20 Q That would be the 20th of April? 13:12:44

21 A Yes. 13:12:48

22 Q At what time? 13:12:48

23 A I don't know. 13:12:50

24 Q Were you at home? 13:12:52

25 A Yes. 13:12:53

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1 Q Did you speak with her on the phone? 13:12:54
2 A Yes. 13:12:56
3 Q Go through that discussion for us. 13:12:57
4 A She just asked me to write a statement what 13:12:59
5 happened the previous night, which I did, and that 13:13:03
6 is it. 13:13:07
7 Q Well, what did she say at the beginning of the 13:13:09
8 conversation? How did she open the call? 13:13:12
9 A That she got a call from Kelsey and had the 13:13:18
10 complaint and that I should write a statement what 13:13:26
11 my opinion -- my side of the story, and I did. 13:13:29
12 Q Did she tell you what the substance of the 13:13:32
13 complaint was? 13:13:35
14 A Yes. She said that I allegedly hit her. 13:13:36
15 Q And how did you react to that? 13:13:42
16 A I said I did not hit her and I would write a 13:13:44
17 statement. 13:13:49
18 Q And what else was said during that call? 13:13:50
19 A That was about it. 13:13:51
20 Q Do you recall anything else that was said? 13:13:53
21 A No. 13:13:55
22 Q Did you have any other contact with Lorraine 13:13:57
23 following that call in the morning of the 20th? 13:14:03
24 A Thursday the 26th -- 25th when she fired me. 13:14:05
25 Q On Thursday the 25th, did you have any -- did she 13:14:13

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1 contact you at any time between the 20th and the 13:14:16
2 25th? 13:14:18
3 A No, she did not. 13:14:19
4 Q How did you know to come in on the 25th? 13:14:20
5 A That was of -- my leave, my -- which I had 13:14:23
6 qualified for FMLA for three days, but I never had 13:14:27
7 a chance to fill out any papers to get my FMLA 13:14:33
8 because I was fired prior to that. 13:14:38
9 Q You never requested FMLA leave, as you told us 13:14:41
10 previously, correct? 13:14:44
11 A Not prior to this illness. I never requested FMLA 13:14:46
12 prior to this illness. 13:14:54
13 Q Did you request FMLA leave in connection with this 13:14:56
14 illness? 13:15:00
15 A I was off. I was going to ask for it on the 25th 13:15:00
16 because I was still not feeling well, but I was 13:15:04
17 fired prior to requesting it. 13:15:07
18 Q So you were going to but you never did, correct? 13:15:08
19 A Correct, because I was immediately called into her 13:15:10
20 office. 13:15:13
21 Q And you didn't have any conversations with Lorraine 13:15:14
22 between the 20th and the 25th? 13:15:18
23 A No. 13:15:21
24 MR. FRANKLIN: Go ahead and hook it 13:15:25
25 back up. You okay? 13:15:26

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1 Q Did you receive any voice messages from Lorraine 13:15:27
2 during that time? 13:15:38
3 A No. 13:15:39
4 Q Did you call her at any point in time -- 13:15:40
5 A No. 13:15:42
6 Q -- during that -- you need to let me finish my 13:15:42
7 questions. 13:15:45
8 A I'm sorry. 13:15:45
9 Q Did you call her at any point in time during those 13:15:46
10 days? 13:15:48
11 A No. 13:15:49
12 Q So the one time you spoke with Lorraine about this 13:15:51
13 incident was on the morning of April the 20th? 13:15:56
14 A Yes. 13:15:58
15 Q You also spoke with Bob Huenefeld about it? 13:16:01
16 A Yes. 13:16:04
17 Q When was that? 13:16:06
18 A I did not keep a documented time of it or date, but 13:16:06
19 I believe it was on Monday. 13:16:20
20 Q And how did you come to talk with Bob? 13:16:26
21 A He called me. 13:16:28
22 Q What did he say to you when he called? 13:16:31
23 A He asked me to come in. 13:16:34
24 Q And what did you tell him? 13:16:35
25 A I could not. 13:16:37

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1 Q Did he ask you to meet with you any other way in 13:16:38
2 person? 13:16:41
3 A No. 13:16:42
4 Q What did you tell him about why you could not? 13:16:42
5 A I was sick. 13:16:48
6 Q Did you talk with him on the phone then? 13:16:50
7 A Yes. 13:16:52
8 Q At that time or at a later time? 13:16:53
9 A At that time. 13:17:04
10 Q So you had one phone call with Bob Huenefeld? 13:17:07
11 A Yes. 13:17:13
12 Q Take us through that phone call. How did it begin, 13:17:13
13 who said what, all the way through the end. 13:17:16
14 A He asked me what happened. I told him exactly what 13:17:19
15 happened. 13:17:33
16 Q How did the phone call begin? 13:17:33
17 A He just called me and said, Jane; I says, yes; this 13:17:36
18 is Bob Huenefeld, I'm investigating this incident; 13:17:44
19 I said okay. I had my form wrote up that I wrote 13:17:48
20 up right away when Lorraine talked to me and I told 13:17:54
21 him what I wrote on that form. 13:17:57
22 Q So you had a form written up and you just read from 13:18:02
23 the form? 13:18:10
24 A Uh-huh. Yes. 13:18:11
25 Q Did Mr. Huenefeld ask you any follow-up questions? 13:18:12

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1 A No. 13:18:15

2 Q Did you say anything else to him? 13:18:16

3 A I don't remember saying anything else to him. 13:18:18

4 Q Did he say anything else to you? 13:18:25

5 A He just said I would really like to talk to you in 13:18:34

6 person, and I says I understand that, but I do not 13:18:37

7 feel well. 13:18:40

8 Q Did you mention anything to Mr. Huenefeld about 13:18:47

9 FMLA leave during that call? 13:18:51

10 A No, that was Monday. I didn't -- I had not seen 13:18:53

11 the doctor yet. 13:19:04

12 Q You had Mr. Huenefeld's number? 13:19:15

13 A No. 13:19:17

14 Q You didn't know how to get in touch with 13:19:18

15 Mr. Huenefeld if you wanted to? 13:19:20

16 A No. 13:19:22

17 (Defendants' Exhibit DD marked.) 13:19:33

18 Q I've now given you what's been marked as 13:19:33

19 Defendants' Exhibit DD. Do you recognize that? 13:19:38

20 A Yes. 13:20:24

21 Q What is it? 13:20:26

22 A It's my statement I wrote regarding April 19. 13:20:27

23 Q When did you write this? 13:20:31

24 A Saturday. 13:20:33

25 Q After you spoke with Lorraine? 13:20:34

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1 A Uh-huh. 13:20:36

2 Q Did you ever submit this to the company? 13:20:37

3 A No. 13:20:39

4 Q Did you read directly from this when you spoke to 13:20:39

5 Mr. Huenefeld? 13:20:44

6 A Yes, because when he called me, I had this in front 13:20:44

7 of me. He asked me what happened and this is what 13:20:47

8 I told him. 13:20:50

9 Q Did you tell Mr. Huenefeld that you had a written 13:20:50

10 statement to submit? 13:20:53

11 A Yes. 13:20:54

12 Q How did he respond when you told him that? 13:20:54

13 A He wanted to -- me to bring it in. Again, I could 13:20:57

14 not physically be able to bring it to him. 13:21:01

15 Q You came in on the 25th, correct? 13:21:04

16 A Right. 13:21:06

17 Q Did you bring this with you on the 25th -- 13:21:06

18 A Yes. 13:21:08

19 Q -- to provide anyone? Did you provide it to 13:21:08

20 anyone? 13:21:12

21 A No. They didn't ask -- they did not ask me for it. 13:21:12

22 Q Did Mr. Huenefeld ask you if you made physical 13:21:16

23 contact with Kelsey Quellhorst on April 19th? 13:21:21

24 A Yes. 13:21:23

25 Q How did you respond? 13:21:23

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1 A Absolutely not. 13:21:24

2 Q When you spoke with Ms. Fischio on the morning of 13:21:38

3 April the 20th, did she tell you that 13:21:47

4 Ms. Quellhorst had claimed you made physical 13:21:49

5 contact with her? 13:21:51

6 A Yes. 13:21:52

7 Q Did she tell you that Ms. Quellhorst claimed that 13:21:52

8 you yelled at her? 13:21:57

9 A No, just the physical contact. 13:22:01

10 Q And you wrote this statement after that phone call 13:22:15

11 with Ms. Fischio? 13:22:18

12 A Yes. 13:22:20

13 Q So when you wrote this statement, you understood 13:22:20

14 that Ms. Quellhorst claimed you made physical 13:22:23

15 contact with her? 13:22:26

16 A Yes. And I said no. 13:22:27

17 Q Do you address that anywhere in this statement, to 13:22:28

18 deny that you made physical contact with 13:22:32

19 Ms. Quellhorst? 13:22:35

20 A "I did not touch Kelsey in any way." 13:22:55

21 Q And you claim you read this directly to 13:22:57

22 Mr. Huenefeld? 13:23:00

23 A Yes. 13:23:00

24 Q Did you have any other contact with anyone else 13:23:10

25 from St. Mary's about this April 19th incident? 13:23:13

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- 1 A Rephrase the question. 13:23:22
- 2 Q Did you -- you've already talked to me about 13:23:23
- 3 interaction you had with Ms. Fischio and 13:23:25
- 4 Mr. Huenefeld about the April 19th incident. Did 13:23:29
- 5 you have contact with anyone else from St. Mary's 13:23:33
- 6 about that incident? 13:23:35
- 7 A No. 13:23:37
- 8 Q I'd ask you to look back at Exhibit CC, your 13:23:39
- 9 calendar. On April 19th on the right side it says 13:24:05
- 10 left sick. When did you leave sick? 13:24:12
- 11 A When I left the building. 13:24:16
- 12 Q What time was that? 13:24:19
- 13 A Probably around 6 because 5:30 we had the 13:24:20
- 14 discussion. 13:24:25
- 15 Q Did you tell anyone when you left that you were 13:24:26
- 16 leaving because you were sick? 13:24:28
- 17 A No, because I was already past my eight hours. 13:24:30
- 18 Q When was the first time you communicated with the 13:24:39
- 19 company about your claimed illness? 13:24:49
- 20 A Monday I got -- went to the doctor and got a slip 13:24:53
- 21 saying I was off work. 13:24:58
- 22 Q To whom did you communicate that? 13:25:01
- 23 A I don't know. I called in and said I would be off. 13:25:03
- 24 Q You don't know who you spoke with and told that to? 13:25:15
- 25 A (Indicating.) 13:25:18

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1 Q Did you speak with Ms. Fischio? 13:25:19
2 A No. 13:25:22
3 Q What did you say? 13:25:24
4 A That I was sick and I had a doctor's slip. 13:25:27
5 Q You don't know who you said that to? 13:25:31
6 A No. 13:25:33
7 Q Did you say anything more specific than that? 13:25:34
8 A No. 13:25:36
9 Q Did you ever request medical leave? 13:25:38
10 A I would have. I was still not feeling well that 13:25:52
11 Thursday and I was going to ask for it. 13:25:57
12 Q Is the answer no? 13:25:59
13 A No. 13:26:01
14 Q The answer is no, correct, you did not request 13:26:01
15 medical leave? 13:26:07
16 A No. 13:26:08
17 Q Did you request medical leave? 13:26:10
18 A No. 13:26:14
19 Q When -- and you can't recall who you spoke to when 13:26:16
20 you called in to tell them you wouldn't be there? 13:26:23
21 A No. 13:26:25
22 Q If one of your direct reports is going to be off 13:26:25
23 due to sickness, are they supposed to call you and 13:26:29
24 tell you that? 13:26:32
25 A I usually let the business office know and I get 13:26:35

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1 told. 13:26:39
2 Q But the company protocol is that you notify your 13:26:39
3 supervisor, correct? 13:26:41
4 A Correct. 13:26:43
5 Q So you should have notified Lorraine, correct? 13:26:43
6 A Yes. 13:26:47
7 Q But you didn't and you can't recall who you spoke 13:26:47
8 to? 13:26:54
9 A Correct. 13:26:56
10 MR. FRANKLIN: I'm going to object; 13:26:56
11 asked and answered. This is getting 13:26:57
12 grating. You've asked her four or five 13:27:02
13 times now if she remembered and she's told 13:27:04
14 you no. The answer isn't going to change. 13:27:06
15 Q Do you recall what that person said when you called 13:27:10
16 in and said you'd be off sick? 13:27:13
17 A Said okay. 13:27:14
18 Q Did you say how long you'd be off sick? 13:27:16
19 A Yes. 13:27:20
20 Q What did you say? 13:27:20
21 A To the 25th. I had my excuse slip. 13:27:20
22 Q You told them that you'd be returning on the 25th? 13:27:27
23 A Yes. 13:27:35
24 (Defendants' Exhibit EE marked.) 13:27:56
25 Q Ms. Fiely, I've given you what's been marked as 13:27:56

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1 Defendants' Exhibit EE. Do you recognize that? 13:27:59
2 A Yes. 13:28:03
3 Q What is it? 13:28:03
4 A My excuse slip. 13:28:04
5 Q Did you provide this to St. Mary's? 13:28:07
6 A Yes. 13:28:09
7 Q When? 13:28:10
8 A I don't remember. 13:28:29
9 Q Do you recall who you provided it to? 13:28:32
10 A Business office. 13:28:35
11 Q Did you say anything about your restriction 13:28:38
12 beyond -- or your medical condition beyond what was 13:28:41
13 included on this slip? 13:28:44
14 A No. 13:28:45
15 Q You just said you'd be returning on April the 25th 13:28:48
16 because that's when you were released? 13:28:51
17 A Yes. 13:28:54
18 Q Tell us about the next time you had communication 13:29:00
19 with anyone at St. Mary's about your claimed 13:29:03
20 illness. 13:29:07
21 A Rephrase that. 13:29:11
22 Q You've told us you called in on the 22nd after you 13:29:12
23 provided this slip, was one time you communicated 13:29:17
24 about this claimed illness, correct? 13:29:20
25 A And the paper states about the 25th, and which I 13:29:22

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1 never communicated in between. 13:29:26

2 Q Did you have any other communications with anyone 13:29:29

3 at St. Mary's about the illness for which you were 13:29:32

4 restricted from the 22nd to the 25th? 13:29:36

5 A No. 13:29:39

6 Q Did you talk to anyone else at St. Mary's about 13:29:39

7 your claimed illness? 13:29:47

8 A No. 13:29:49

9 Q Were you paid for the time you were off between the 13:29:53

10 22nd and the 25th? 13:29:57

11 A Yes. 13:29:59

12 Q How did your employment with St. Mary's ultimately 13:29:59

13 end? 13:30:32

14 A I was terminated that Thursday. 13:30:32

15 Q Tell us about how that happened. 13:30:39

16 A I returned to work, Lorraine met me in the hallway, 13:30:45

17 she said I do not have good news. She took me to 13:30:49

18 her office and said Kelsey's dad is a policeman and 13:30:54

19 we want to prevent a lawsuit and I was terminated. 13:31:01

20 Q What time did that happen? 13:31:11

21 A I don't know. 13:31:13

22 Q Was it in the morning, was it in the afternoon? 13:31:16

23 A Morning. 13:31:16

24 Q When did you report to work? 13:31:19

25 A Around 8:00. 13:31:20

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1 Q Did you do anything at work before you met 13:31:22
2 Ms. Fischio? 13:31:24
3 A No, I walked in the front door, went into the 13:31:26
4 business office, which nobody was in, to get my 13:31:30
5 mail, she met me at the corner and took me to her 13:31:32
6 office and stated they didn't want a lawsuit, 13:31:37
7 Kelsey's dad was a policeman, and I was terminated. 13:31:39
8 Q Was Mr. Derossett on the phone for that 13:31:44
9 conversation? 13:31:48
10 A Not the -- not at that time. 13:31:48
11 Q Well, at some other time? 13:31:49
12 A Later. 13:31:51
13 Q When was that? 13:31:52
14 A When we got into her office and she told me that, 13:31:53
15 then she called Barry. 13:31:57
16 Q And then what happened? 13:31:58
17 A It was repeated. 13:31:59
18 Q What was repeated? 13:32:04
19 A That I was terminated. 13:32:05
20 Q From the beginning to the end, walk us through what 13:32:06
21 was said by whom. 13:32:09
22 A Lorraine just said we would have to let you go. 13:32:19
23 Q So did Lorraine say anything to you about getting 13:32:30
24 Barry on the phone? 13:32:35
25 A I -- no, I don't remember her saying she was going 13:32:39

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1 to get Barry on the phone. 13:32:42

2 Q But she got Barry on the phone? 13:32:43

3 A She called him. 13:32:46

4 Q So your testimony, just so I'm clear, is that she 13:32:47

5 brought you into her office, had the communication 13:32:48

6 with you about you being terminated, and then said 13:32:50

7 that you needed to call Barry? 13:32:53

8 A Yeah. 13:32:54

9 Q And what was the -- the substance of that 13:32:54

10 conversation with Barry was simply we're going to 13:32:56

11 have to let you go? 13:33:00

12 A Uh-huh. 13:33:01

13 Q Who said that? 13:33:02

14 A Lorraine. 13:33:02

15 Q Did Barry say anything? 13:33:04

16 A He said good luck to me. 13:33:07

17 Q Did Lorraine tell you why you were getting Barry on 13:33:10

18 the phone? 13:33:14

19 A As a witness. 13:33:14

20 Q Is that your conclusion or is that what Lorraine 13:33:22

21 told you? 13:33:25

22 A My conclusion. I -- she didn't tell me. 13:33:27

23 Q At any time during that conversation did you say 13:33:31

24 you wanted to resign? 13:33:38

25 A No. I did not want to resign. 13:33:39

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1 Q Did Mr. Derossett ever communicate to you any -- 13:33:48
2 communicate to you anything about your employment 13:33:52
3 being terminated? 13:33:53
4 A No. He just wished me good luck. 13:33:54
5 Q And the reason that was given to you about why your 13:34:00
6 employment would end, according to you, was that 13:34:04
7 Ms. Quellhorst's father was a police officer, they 13:34:07
8 wanted to prevent a lawsuit, I presume from your 13:34:11
9 conduct on the 19th? 13:34:14
10 A She didn't say what for. She just said there could 13:34:15
11 be a lawsuit, we want to prevent a lawsuit. 13:34:19
12 Q What was your understanding of what that meant? 13:34:21
13 A That I was terminated. 13:34:26
14 Q You understand before that Ms. Quellhorst claimed 13:34:34
15 you had made physical contact with her? 13:34:37
16 A Yes. 13:34:39
17 Q And so you understood, didn't you, that any lawsuit 13:34:39
18 would be related to that physical -- allegation of 13:34:43
19 physical contact? 13:34:46
20 A My assumption, but I didn't know for sure. 13:34:47
21 Q Do you have any reason to believe that St. Mary's 13:34:52
22 didn't tell you the real reason for your employment 13:34:55
23 ending? 13:34:57
24 A I'm not sure. Can you restate that again? 13:34:59
25 Q Do you have any reason to believe that St. Mary's 13:35:07

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1 didn't tell you the real reason for your employment 13:35:11
2 ending? 13:35:14
3 A St. Mary's, the building, or who -- somebody in 13:35:21
4 particular? 13:35:27
5 Q The representatives of St. Mary's, Mr. Derossett 13:35:27
6 and Ms. Fischio. 13:35:30
7 A Can you repeat the question? 13:35:42
8 Q Do you have any reason to believe that they did not 13:35:44
9 tell you the real reason for your employment 13:35:46
10 ending? 13:35:49
11 A Okay, one more time. 13:36:27
12 MR. GARRISON: Will you repeat the 13:36:29
13 question, please. 13:36:29
14 MR. FRANKLIN: If you don't 13:36:31
15 understand it, just tell him you don't 13:36:32
16 understand it. 13:36:33
17 A Yeah, I don't understand it. 13:36:33
18 MR. FRANKLIN: Well, she's going to 13:36:35
19 read it back to you and maybe you'll 13:36:36
20 understand it from her. 13:36:49
21 (Said question read back). 13:36:53
22 A Yes. 13:36:59
23 Q What was that reason? 13:37:01
24 A The real reason? 13:37:02
25 Q Yes. 13:37:04

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1 A I believe I was kind of being pushed out the door, 13:37:06
2 age discrimination. 13:37:11

3 Q So do you think Mr. Derossett and Ms. Fischio were 13:37:13
4 lying to you when they told you the reason why you 13:37:17
5 were being terminated? 13:37:20

6 A Yes. 13:37:22

7 Q What makes you think that they were lying to you? 13:37:23

8 A Because shortly -- like I told earlier, two weeks 13:37:26
9 prior to that, around two weeks prior Lorraine had 13:37:29
10 talked to me about early retirement. Barry came 13:37:32
11 in. And I brought that up earlier and then you 13:37:36
12 told me we'll talk about it later. And I spoke 13:37:39
13 with Barry about it, about the retirement. 13:37:41

14 Q Any other reason that you think that they were 13:37:49
15 lying to you when they told you about the reason 13:37:53
16 for your discharge? 13:37:58

17 A No, I think that's the reason. 13:37:59

18 Q You understand Ms. Quellhorst's father is a police 13:38:01
19 officer? 13:38:06

20 A That's what I was told. I don't know. 13:38:06

21 Q Do you have any reason to believe that's incorrect? 13:38:07

22 A I don't know. 13:38:10

23 Q Do you have any reason to believe that 13:38:12
24 Mr. Derossett and Ms. Fischio didn't honestly 13:38:14
25 believe the reason they gave you for why your 13:38:18

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1 employment was ending? 13:38:20

2 MR. FRANKLIN: Objection; compound 13:38:22

3 question. I'm going to ask that you split 13:38:24

4 the question up as individuals. 13:38:31

5 MR. GARRISON: Reread the question, 13:38:32

6 please. 13:38:32

7 (Said question read back.) 13:38:46

8 MR. FRANKLIN: Still object to the 13:38:46

9 form. Object to the question. Answer it 13:38:47

10 if you can. 13:38:57

11 A Yes. 13:38:57

12 Q What's the basis for that belief? 13:38:58

13 A Again, I think I was being pushed out the door due 13:39:01

14 to my age. 13:39:07

15 Q And that's based on what you've already told us 13:39:09

16 here today? 13:39:11

17 A Yes. 13:39:11

18 Q Anything beyond that? 13:39:12

19 A No. 13:39:13

20 Q You said that you spoke with Mr. Derossett about 13:39:15

21 it? 13:39:19

22 A Uh-huh, yes. 13:39:19

23 Q When did that happen? 13:39:21

24 A I didn't write it on my calendar. I don't know 13:39:23

25 exactly a date. 13:39:29

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1 Q Give me a rough timeframe. 13:39:30
2 A Okay. Probably maybe around the middle of the 13:39:36
3 month. 13:39:43
4 Q Which month? 13:39:43
5 A April. 13:39:44
6 Q The middle of April -- 13:39:45
7 A Yes. 13:39:45
8 Q -- of 2013? 13:39:46
9 A Yes. 13:39:47
10 Q Was this in person? 13:39:49
11 A Yes. 13:39:52
12 Q Where was -- where were you located when you spoke 13:39:52
13 with Mr. Derossett? 13:39:55
14 A Okay. Where was I located? 13:40:07
15 Q Yes. 13:40:09
16 A When I talked to him? In my office. 13:40:10
17 Q At St. Mary's? 13:40:13
18 A At St. Mary's. 13:40:14
19 Q Walk us through that discussion from beginning to 13:40:16
20 end. 13:40:19
21 A We discussed a lot of things that day, and I asked 13:40:26
22 him about the retirement, and he basically -- he 13:40:30
23 did not respond to it. 13:40:35
24 Q All right. So you -- I need more definition than 13:40:37
25 that to the extent you can recall. How did -- what 13:40:39

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1 exactly did you say to him about your belief that 13:40:42
2 Ms. Fischio made inappropriate comments to you? 13:40:46
3 A I guess I spoke with Barry about some of the issues 13:40:59
4 Lorraine and I were having and brought up about the 13:41:03
5 age issue and the retirement. 13:41:10
6 Q What specifically did you tell him? 13:41:12
7 A I asked him about the retirement package she had 13:41:16
8 said something to me about. 13:41:29
9 Q What specifically did you say? 13:41:30
10 A Is there a retirement package that she offered me? 13:41:33
11 Q And what were you discussing immediately prior to 13:41:39
12 you asking that question of Mr. Derossett? 13:41:42
13 A I can't remember exactly word by word what we 13:41:46
14 discussed. 13:42:06
15 Q Do you remember the subject of the discussion that 13:42:07
16 preceded you conveying what you just said to 13:42:11
17 Mr. Derossett? 13:42:14
18 A I asked Barry, I was surprised to see him, that he 13:42:15
19 had come down to see me. And then we'd spoke and I 13:42:19
20 asked him about the retirement package that 13:42:24
21 Lorraine had said. 13:42:27
22 Q How did he respond? 13:42:29
23 A That was all the further the discussion went on the 13:42:30
24 retirement. 13:42:37
25 Q Did he respond? 13:42:38

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1 A No. 13:42:39

2 Q So what did he say? 13:42:40

3 A He said what are some of the issues with Lorraine 13:42:43

4 that we can resolve. 13:42:50

5 Q Well, as I understand your testimony, you've said 13:42:51

6 that you told Mr. Derossett Lorraine spoke with me 13:42:54

7 about a retirement package? 13:42:58

8 A Right. 13:43:00

9 Q And you asked him about the retirement package. 13:43:00

10 How did he respond to that? 13:43:03

11 A He did not. 13:43:05

12 MR. FRANKLIN: Asked and answered. 13:43:06

13 Q He did not respond, he just changed the subject and 13:43:07

14 talked about something else? 13:43:10

15 A Yes. 13:43:11

16 Q Did you say anything else during that conversation 13:43:11

17 with Mr. Derossett about Lorraine's claimed 13:43:14

18 comments to you about a retirement package? 13:43:20

19 A Again, repeat that. 13:43:24

20 Q Did you say -- during that conversation with 13:43:26

21 Mr. Derossett, you brought up the retirement 13:43:28

22 package, correct? 13:43:31

23 A Right. 13:43:32

24 Q Did you say anything else to Mr. Derossett about 13:43:32

25 Ms. Fischio's claimed comments to you relating to 13:43:36

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1	that retirement package?	13:43:39
2	A Yes, that she had called me two weeks -- or a week prior to his visit and saying she had this great retirement package to offer me.	13:43:42
3		13:43:45
4		13:43:49
5	Q I understand that. Did you say anything else to Mr. Derossett about that subject during that conversation?	13:43:51
6		13:43:53
7		13:43:56
8	A No.	13:43:56
9	Q At any other time did you say anything else to him?	13:43:57
10	A No.	13:44:00
11	Q Do you believe that Mr. Derossett discriminated against you on the basis of your age?	13:44:15
12		13:44:18
13	A Yes.	13:44:21
14	Q Why?	13:44:22
15	A Because he backed Lorraine.	13:44:23
16	Q Anything else?	13:44:29
17	A When he came down, I didn't see him very much and he always spoke with Lorraine.	13:44:32
18		13:44:36
19	Q Anything else?	13:44:38
20	A No.	13:44:39
21	Q Do you believe Mr. Huenefeld discriminated against you on the basis of your age?	13:44:40
22		13:44:43
23	A Yes.	13:44:45
24	Q Why?	13:44:45
25	A I think he discriminated me because of the issues	13:44:46

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1 Lorraine wrote and that I -- we needed to let Jane 13:45:05
2 go. 13:45:10

3 Q Because of the issue. What issue did Lorraine 13:45:10
4 write? 13:45:14

5 A All those things in the -- in your paperwork that 13:45:14
6 I said I never saw before. 13:45:17

7 Q Did anyone ever tell you those were factors in your 13:45:20
8 termination? 13:45:28

9 A No. 13:45:30

10 Q Well, what's given you -- given rise to your belief 13:45:30
11 then that those had anything to do with your 13:45:36
12 termination? 13:45:41

13 A It makes my history look bad. 13:45:49

14 Q Have you ever met Mr. Huenefeld? 13:45:53

15 A Yes. 13:45:55

16 Q In your Complaint you draw a connection between the 13:46:03
17 termination of your employment and your claim that 13:46:06
18 you were entitled to FMLA leave and your asserted 13:46:09
19 right to take FMLA leave. Why do you think there's 13:46:12
20 a connection between those things? 13:46:15

21 A Again, repeat that. 13:46:19

22 Q You've drawn a connection between the termination 13:46:23
23 of your employment and your claim that you were 13:46:25
24 entitled to take FMLA leave and asserted your right 13:46:31
25 to take FMLA leave. 13:46:34

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1 A Right. 13:46:36

2 Q Why do you think there is that connection? 13:46:37

3 A Because I had -- I was -- had enough sick time in 13:46:39

4 to qualify for FMLA, and I was going to ask for it 13:46:47

5 because I was still not feeling well and never had 13:46:53

6 the chance. 13:46:57

7 Q Is there anything else that gives rise to your 13:46:57

8 belief that those two things are connected? 13:46:59

9 A No. 13:47:09

10 Q Did anyone affiliated with St. Mary's ever tell you 13:47:11

11 that anything to do with FMLA leave was a factor in 13:47:14

12 the decision to terminate your employment? 13:47:18

13 A No. 13:47:24

14 Q You also draw a connection between the termination 13:47:25

15 of your employment and your age. You told us a 13:47:32

16 number of reasons of why you think that connection 13:47:35

17 exists. Is there any other reason you haven't told 13:47:39

18 us already during the deposition that you believe 13:47:42

19 there's a connection between the termination of 13:47:43

20 your employment and your age? 13:47:45

21 A No. 13:47:47

22 Q Did anyone at St. Mary's ever tell you that your 13:47:48

23 age was a factor in the decision to end your 13:47:54

24 employment? 13:47:57

25 A No. 13:47:57

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1 Q Do you have any idea of who made the decision to 13:47:58
2 terminate your employment? 13:48:02
3 A No. 13:48:03
4 Q Do you have any idea whether anyone else has been 13:48:03
5 terminated for the same reason you were terminated? 13:48:07
6 A No. 13:48:12
7 Q Are you aware of anyone who you believe was treated 13:48:14
8 more favorably than you under similar 13:48:16
9 circumstances? 13:48:20
10 A Explain similar circumstances. 13:48:21
11 Q Who is alleged to have made physical contact with 13:48:24
12 another -- 13:48:27
13 A No. 13:48:27
14 Q -- employee? Pardon? 13:48:27
15 A No. 13:48:29
16 Q Did you have any communication with folks at Atrium 13:48:29
17 following your separation? 13:48:39
18 A No. 13:48:40
19 (Defendants' Exhibit FF marked.) 13:48:40
20 Q I've given you what's been marked as Defendants' 13:49:03
21 Exhibit FF. Do you recognize that document? 13:49:05
22 A Yes. 13:49:28
23 Q And did you draft this? 13:49:29
24 A Yes. 13:49:30
25 Q Did you ever send this? 13:49:31

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1 A Yes. 13:49:32

2 Q You sent it on May 1st, 2013? 13:49:33

3 A Yes. 13:49:40

4 Q Do you know whether they received it? 13:49:41

5 A I do not know. 13:49:43

6 Q And this was addressed to, I take it, the Jason and 13:49:45

7 Pam that we discussed at the beginning of the 13:49:48

8 deposition? 13:49:50

9 A Yes. 13:49:51

10 Q How about Gertie and Lori, who are they? 13:49:52

11 A Lori is Pam's assistant and Gertie is the key 13:49:54

12 way -- was the key way nurse. 13:49:58

13 Q You say in the third paragraph, "I feel that I was 13:49:59

14 unable to defend myself through this ordeal." What 13:50:07

15 do you mean by that? 13:50:11

16 A I was home sick and was not able to meet with Bob 13:50:12

17 in person and defend myself. 13:50:16

18 Q Was there any other way you believe you weren't 13:50:19

19 able to defend yourself? 13:50:22

20 A I don't think my story was really told. 13:50:27

21 Q You said, "plus Lorraine was after me to retire." 13:50:36

22 A Yes. 13:50:41

23 Q "Called me at home a few weeks earlier." 13:50:42

24 A Yes. 13:50:44

25 Q "Told me I was a nurse and could get a job 13:50:44

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1 anywhere." 13:50:47
2 A Yes. 13:50:47
3 Q Are those the same discussions we've already talked 13:50:48
4 about here today? 13:50:50
5 A Yes. 13:50:51
6 Q You then said, "told me she would rather have 13:50:51
7 someone else as a DON." To my recollection, you've 13:50:54
8 never said in any of your prior testimony that she 13:50:57
9 made a comment to that effect during any of your 13:51:00
10 conversations with her. 13:51:03
11 A But she did. 13:51:04
12 Q When did she make that comment? 13:51:05
13 A One time when she was speaking with me, she said 13:51:07
14 she'd rather have somebody else as a DON. 13:51:10
15 Q Which discussion was that? 13:51:13
16 A I can't remember exactly what day, what month. I 13:51:22
17 just remember in her office she told me she'd 13:51:26
18 rather have somebody else as a DON. 13:51:28
19 Q So this was not one of the cars rides you 13:51:31
20 mentioned -- 13:51:33
21 A No. 13:51:34
22 Q -- where she referenced retirement? 13:51:34
23 A No. 13:51:35
24 Q This was a different conversation. You don't 13:51:36
25 remember when it happened? 13:51:39

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1 A No. 13:51:40

2 Q What was the context of the discussions surrounding 13:51:40
3 that claimed statement? 13:51:43

4 A It's been a long time ago. I don't remember. 13:51:46

5 Q You don't remember what you were discussing? 13:52:07

6 A No. 13:52:10

7 Q What specifically did you say? 13:52:11

8 A Did who say? 13:52:13

9 Q I'm sorry, did Ms. Fischio say. 13:52:15

10 A She said she'd rather have someone else be her 13:52:18
11 Director of Nursing. 13:52:21

12 Q Did she say why? 13:52:22

13 A I don't remember. 13:52:24

14 Q You said many conversations like this. Did she say 13:52:43
15 that to you -- or do you claim she said that to you 13:52:47
16 in any other conversation? 13:52:51

17 A No, I don't remember. 13:52:57

18 Q Are there any conversations that we haven't talked 13:52:58
19 about yet today in which you claim that Lorraine 13:53:01
20 was after you to retire, told you you were a nurse 13:53:04
21 and could get a job anywhere, or told you she would 13:53:08
22 rather have someone else as a DON? 13:53:12

23 A I don't -- no. 13:53:23

24 Q And then at the bottom you say, "sorry, but someone 13:53:25
25 had to hear my side of the story when I was alert 13:53:28

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1 and oriented." When were you not alert or not 13:53:30
2 oriented? 13:53:37

3 A I misused that terminology. I was just so sick 13:53:38
4 that week and that's where I came up with this. I 13:53:41
5 just did not feel well that entire week. 13:53:46

6 Q So at the time you spoke with Mr. Huenefeld, you 13:53:48
7 were alert and oriented? 13:53:51

8 A Yes. 13:53:53

9 Q And at the time you wrote that written statement, 13:53:53
10 you were alert and oriented as well? 13:53:54

11 A Yes, but it kept getting worse and I was hoping by 13:53:57
12 Monday to go back to work and I didn't. 13:54:02

13 13:54:07
14 13:54:10
15 13:54:10
16 14:16:39
17 14:16:39
18 14:16:41
19 on any questions, I just want to get on 14:16:42
20 the record that Plaintiff's Counsel has 14:16:45
21 produced the original copy of Defendants' 14:16:47
22 Exhibit CC. 14:16:50
23 14:16:53
24 14:16:54
25 wrong here, John, but we've agreed that 14:16:55

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1 any pages that are missing from Exhibit CC 14:16:59
2 from the production will be copied and 14:17:02
3 produced? 14:17:03
4 MR. FRANKLIN: Yeah, we're going to 14:17:04
5 give you the entire document including the 14:17:05
6 front page. 14:17:08
7 MR. GARRISON: Fantastic. 14:17:10
8 Q Ms. Fischio, I'm going to give you that original 14:17:10
9 copy of your DayTimer. I'd like you to tell me 14:17:13
10 when you started recording entries in that 14:17:17
11 DayTimer. 14:17:21
12 MR. FRANKLIN: Explain it to him. 14:17:29
13 A Oh, I've explained the change of the year is 14:17:30
14 because I wanted to continue on in this book from 14:17:34
15 June. 14:17:39
16 Q So you started recording in that book in 2013, not 14:17:40
17 2012? 14:17:44
18 A Right. Exactly. 14:17:45
19 Q When in 2013 did you start recording entries in 14:17:46
20 that journal? 14:17:50
21 A You want just the year of 2013? 14:17:52
22 Q Just when you started -- when you first put pen to 14:18:12
23 paper in that book. 14:18:16
24 A Well, in October of 2012 I got about our trip to 14:18:17
25 Florida for our Bronze Award, I didn't put anything 14:18:22

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1 Q When was the first time you reviewed it? 14:23:23
2 A When I got the information that was e-mailed to me. 14:23:26
3 Q I don't want to know specifically what you 14:23:36
4 reviewed. When did you first review that document? 14:23:42
5 MR. FRANKLIN: If you can remember. 14:23:47
6 A I can't remember. 14:23:49
7 Q Does it accurately state the claims you're making 14:23:49
8 against St. Mary's? 14:23:53
9 A Yes. 14:23:54
10 Q I'd like you to turn to Page 4. At the top of that 14:23:55
11 page, paragraph 17, you allege that in or around 14:24:01
12 early April of 2013, Fiely was contacted by 14:24:03
13 St. Mary's Administrator Lorraine Fischio who asked 14:24:06
14 Fiely when she was going to retire and that she, 14:24:10
15 Ms. Fischio, could get a good retirement package. 14:24:14
16 Have we already discussed the facts that 14:24:18
17 you claim support that allegation? 14:24:21
18 A Yes. 14:24:24
19 Q Was there any other time that you claim -- other 14:24:26
20 than what we've already talked about, you claim 14:24:28
21 Ms. Fischio made comments to you that support that 14:24:32
22 allegation? 14:24:35
23 A Yes. 14:24:35
24 Q When? 14:24:35
25 A During our drives and things we talked and she 14:24:37

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1 asked me about retirement. 14:24:42

2 Q All right. Which we've already talked about? 14:24:44

3 A Yes, we have. 14:24:45

4 Q To the extent we haven't talked about, is there any 14:24:46

5 other thing we haven't talked about yet today that 14:24:50

6 supports that statement in the Complaint? 14:24:52

7 A No. 14:24:58

8 Q Is there anything you haven't yet told me about 14:25:01

9 your claim that Ms. Fischio engaged in conduct 14:25:04

10 toward you that was inappropriate? 14:25:07

11 A Well, just reiterate that time she told me she 14:25:12

12 wanted a different Director of Nursing. 14:25:16

13 Q Any other time -- or anything else, rather? 14:25:17

14 A No, not to my -- 14:25:35

15 Q Were there other times outside the times we've 14:25:40

16 already talked about when you talked to Ms. Fischio 14:25:43

17 about retirement? 14:25:46

18 A No. 14:25:47

19 Q Did you ever bring up retirement to Ms. Fischio? 14:25:48

20 A No. 14:25:51

21 Q Did you ever bring up the topic of retirement to 14:25:51

22 anyone else with St. Mary's? 14:25:55

23 A No. I did not plan on retiring until I was 65. 14:25:58

24 Q Did you ever say anything to Ms. Fischio about your 14:26:02

25 desire to retire? 14:26:06

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1 A No. 14:26:08

2 Q Did you ever talk with anyone affiliated with 14:26:08

3 St. Mary's about looking for another job outside of 14:26:11

4 St. Mary's? 14:26:14

5 A No. 14:26:15

6 Q Did you ever talk to Mr. Derossett about looking 14:26:15

7 for other jobs? 14:26:22

8 A The day he came to visit me, like I said, I was 14:26:23

9 under the impression he came -- because it was an 14:26:29

10 unexpected visit, we were going to discuss -- he 14:26:31

11 was coming to me to discuss this retirement. And I 14:26:34

12 asked him about it and, again, I told him I 14:26:37

13 didn't -- I told Lorraine I did not plan on 14:26:40

14 retiring until I was 65. 14:26:42

15 Q Now, you didn't mention that when you previously 14:26:44

16 talked about your conversation with Mr. Derossett, 14:26:47

17 did you? 14:26:51

18 A I didn't remember everything at that time, but I 14:26:52

19 had some time to remember it. 14:26:55

20 Q Okay. So now tell me everything that you said to 14:26:57

21 Mr. Derossett during that conversation about 14:26:59

22 Ms. Fischio's comments to you regarding retirement. 14:27:04

23 A I asked him why he was here, because it was 14:27:07

24 unexpected, and if he came -- if he came to talk to 14:27:11

25 me about the retirement that Lorraine had offered 14:27:17

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1 me, and he didn't really answer me. And I told him 14:27:20
2 that Lorraine had told -- asked me about it more 14:27:25
3 than once, but that she had called me at home and I 14:27:28
4 told her I do not plan on retiring until I'm 65. 14:27:31
5 Q Did he say anything in response to that? 14:27:36
6 A No. 14:27:39
7 Q Did you say anything else to him on that subject? 14:27:40
8 A No. 14:27:44
9 Q Anything else whatsoever? 14:27:45
10 A Not on that subject. 14:27:48
11 Q Not on the subject of Ms. Fischio's discussions 14:27:50
12 with you regarding retirement? 14:27:53
13 A I just told him that several times she had talked 14:27:55
14 to me about retirement and about a week before he 14:27:58
15 came down she had called me at home and asked me 14:28:01
16 about this wonderful retirement plan, and I had 14:28:06
17 told her I do not plan on retiring until I'm 65. 14:28:11
18 Q Now, you said something again that you haven't said 14:28:14
19 before when you recounted that conversation, and 14:28:16
20 that is that you're claiming that you told 14:28:19
21 Mr. Derossett that several times Ms. Fischio talked 14:28:22
22 to you about retirement. 14:28:25
23 Do you claim now that you said that to 14:28:26
24 Mr. Derossett during that conversation? 14:28:28
25 A I believe we did speak about that. 14:28:35

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1 Q What did you say? 14:28:37

2 A I feel that Lorraine wants -- would like me to 14:28:43

3 leave and retire and that she had called me at home 14:28:51

4 and offered me this wonderful retirement package, 14:29:00

5 and I explained to her again that I was not going 14:29:04

6 to retire until I was -- did not plan on retiring 14:29:07

7 until I was 65. 14:29:10

8 Q Now, Ms. Fiely, never before when I've asked you to 14:29:11

9 recount that conversation with Mr. Derossett, never 14:29:16

10 before during our discussion today have you said 14:29:18

11 that you told him Ms. Fischio would like you to 14:29:21

12 leave and retire. 14:29:27

13 Did you tell -- do you claim you told him 14:29:30

14 that during that discussion? 14:29:31

15 A Yes. 14:29:33

16 Q What else do you claim you told him? 14:29:33

17 A Like I said, we talked about Lorraine and I having 14:29:39

18 some problems together, and I explained this to him 14:29:45

19 about the retirement package, and we talked about 14:29:48

20 what we could do to fix the problem. 14:29:52

21 Q And you claim previously that you also said during 14:29:57

22 that conversation that Lorraine had told you 14:30:01

23 several times that -- or several times she brought 14:30:04

24 up the topic of retirement. Did you go into any 14:30:08

25 more detail with Mr. Derossett about that? 14:30:11

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1 A No. 14:30:14

2 Q You mention that you went -- you tried to work out 14:30:15

3 the problems during that discussion with 14:30:20

4 Mr. Derossett? 14:30:22

5 A We discussed could we work together, yes. 14:30:24

6 Q What problems were those? 14:30:28

7 A The meetings, not talking together, not speaking, 14:30:30

8 working together better. 14:30:48

9 Q What else? 14:30:50

10 A That's all I can remember. 14:30:53

11 Q Those are all issues related to the way you worked 14:31:00

12 with Ms. Fischio, correct? 14:31:04

13 A Yes. 14:31:08

14 Q So back to my original question, did you ever talk 14:31:10

15 with Mr. Derossett about the fact that you were 14:31:12

16 looking for other jobs? 14:31:15

17 A I felt -- yes. 14:31:17

18 Q When? 14:31:20

19 A When I talked to Barry. 14:31:22

20 Q During the same conversation when you talked about 14:31:26

21 these problems with Ms. Fischio? 14:31:29

22 A Yes. 14:31:31

23 Q What did you tell him? 14:31:32

24 A I just said I feel like looking for something else. 14:31:34

25 Q Did you tell him you felt like looking for 14:31:39

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1 something else or that you were looking for 14:31:41
2 something else? 14:31:43
3 A Felt like looking for something else. 14:31:43
4 Q Did you tell him that you were in the process of a 14:31:46
5 second or third job interview with a certain other 14:31:47
6 position? 14:31:50
7 A I don't recall saying that. 14:31:52
8 Q You told him you were looking to leave St. Mary's? 14:31:55
9 A I said with Lorraine -- no, I don't remember. 14:32:00
10 Q Did you tell him why you were looking at other job 14:32:09
11 opportunities? 14:32:12
12 A I don't remember. 14:32:14
13 Q Well, let's go back to your Complaint again. 14:32:15
14 Take one page -- Page 3, please. In paragraph 16 14:32:25
15 you allege that during the course of your 14:32:35
16 employment you were subjected to discriminatory 14:32:37
17 conduct and ageism. 14:32:41
18 To the extent we have not already 14:32:45
19 discussed them today, are there any other age- 14:32:47
20 related comments you contend were made to you upon 14:32:50
21 which you base this allegation? 14:32:54
22 A No, we discussed that. 14:33:00
23 Q Were there any other age-related actions you 14:33:03
24 contend were directed toward you and upon which you 14:33:07
25 base your claims in this allegation? 14:33:11

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1 A I don't remember any more. 14:33:28

2 Q So have you now told me all the age-related 14:33:29

3 comments or actions you contend were made to you 14:33:33

4 and upon which you base your claims in this case? 14:33:35

5 A That I can remember at this time, yes. 14:33:38

6 Q Well, this is the only time I have a chance to talk 14:33:39

7 to you before trial. 14:33:42

8 A Right. 14:33:43

9 Q So I'd ask you to think, were there any others that 14:33:43

10 you haven't already told me about? And if you need 14:33:48

11 to take some time to think but it, that's fine, we 14:33:51

12 can go off the record and you can wait while we do 14:33:53

13 that. 14:33:57

14 A Okay. Now repeat the question. 14:34:30

15 Q Have you now told me all of the age-related 14:34:31

16 comments or actions you contend were made to you or 14:34:34

17 directed toward you upon which you base your claims 14:34:37

18 in this case? 14:34:40

19 A Yes. 14:34:49

20 Q There's nothing else you haven't already told me? 14:34:51

21 A That I can remember. 14:34:55

22 Q Well, I'm going to wait while you think about it so 14:34:56

23 you can remember. 14:35:00

24 A I told you all that I can think of at this time. 14:35:05

25 Q Let's go to Page 4, please. In paragraph 18 you 14:35:16

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1 allege that you complained about the discriminatory 14:35:23
2 conduct to Defendants' Director of Operations Barry 14:35:27
3 Derosslett. 14:35:31
4 A Yes. 14:35:31
5 Q Does that refer to the discussion we covered 14:35:31
6 previously -- 14:35:34
7 A Yes. 14:35:35
8 Q -- in which you told him about the retirement 14:35:37
9 package offer? 14:35:40
10 A Yes. 14:35:41
11 Q Was there any other conversation with Mr. Derosslett 14:35:41
12 that you're referencing in this allegation? 14:35:49
13 A No. 14:35:52
14 Q Or is there any other time you claim you complained 14:35:52
15 to him or anyone else in management at St. Mary's 14:35:55
16 about alleged discriminatory conduct? 14:35:59
17 A No. 14:36:01
18 Q Do you have any personal knowledge of how 14:36:07
19 Mr. Derosslett responded to that statement you made 14:36:11
20 to him about the retirement package? 14:36:14
21 A No. 14:36:17
22 Q Did you do anything else after speaking with him or 14:36:17
23 talk to anybody else about that same issue? 14:36:23
24 A At that -- on that day? 14:36:36
25 Q At any time after that. 14:36:39

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1 A In corporate? 14:36:40

2 Q Any one. 14:36:42

3 MR. FRANKLIN: Other than attorneys. 14:36:44

4 Q Yes, of course, I don't want to know what you 14:36:45

5 talked with your attorneys about. 14:36:48

6 A My husband. 14:36:49

7 Q Which we talked about at the beginning -- 14:36:50

8 A Yes. 14:36:50

9 Q -- of the deposition? Anyone else? 14:36:53

10 A Yes. Lisa Inskeep. 14:36:58

11 Q When was that? 14:37:01

12 A Probably after Barry left that day. 14:37:02

13 Q And what was -- what is Lisa Inskeep's position? 14:37:06

14 A Social Service. 14:37:09

15 Q And what did you tell her? 14:37:11

16 A Well, we talked and she asked why Barry came down. 14:37:13

17 Q And what did you say? 14:37:19

18 A I just said basically just to talk. I didn't -- 14:37:21

19 I'm -- I didn't tell her any details. 14:37:27

20 Q You didn't say anything about retirement? 14:37:30

21 A I said -- she -- I had already told her that 14:37:32

22 Lorraine offered me a retirement package. That's 14:37:35

23 all she knew. 14:37:39

24 Q Have we now talked about all the complaints you 14:37:44

25 claim you communicated to Mr. Derossett? 14:37:49

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1 A Please? 14:37:52

2 Q Have we covered all of the complaints or issues you 14:37:53
3 claim you communicated to Mr. Derossett? 14:37:58

4 A Yes. I did not tape-record the conversations so 14:38:03
5 that's -- yes. 14:38:06

6 Q Do you claim that you discussed these allegations 14:38:08
7 of age discrimination with anyone else other than 14:38:13
8 what we've already talked about today? 14:38:21

9 A No. 14:38:24

10 Q Back to the Complaint, on Page 4, paragraph 23, you 14:38:25
11 claim that following her termination, Fiely's 14:38:34
12 position was filled by a substantially younger, 14:38:37
13 less qualified individual and/or her termination 14:38:39
14 permitted the retention of persons who are 14:38:43
15 substantially younger than Fiely. 14:38:46

16 What makes you think that? 14:38:48

17 A I knew her age. I knew who it was. 14:38:49

18 Q Who was it? 14:38:55

19 A I don't know her last name, but her first name 14:38:56
20 was -- I can't think of it now. I know her aunt. 14:39:03
21 That's how I knew she got the job. 14:39:06

22 Q And what's your understanding of how old she is? 14:39:09

23 A Her aunt told me, and that she had only been a 14:39:12
24 nurse for a couple years. 14:39:16

25 Q And what's the foundation for your statement that 14:39:17

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1 during that conversation. 14:41:08

2 A Again, repeat the whole question. 14:41:11

3 Q Okay. You just referenced in relation to your 14:41:15
4 conversation with Ms. Fischio on April 20th that 14:41:21
5 you mentioned you were ill because she asked you 14:41:26
6 some questions. 14:41:28

7 A Right. 14:41:29

8 Q What questions did she ask you? 14:41:30

9 A What happened last night because she said I got a 14:41:32
0 call very early -- early this morning from Kelsey. 14:41:37
1 And I just told her I was sick and she said, well, 14:41:41
2 make sure you write a statement. 14:41:44

3 Q What did you tell her about you being sick or did 14:41:46
4 you just tell her simply that? 14:41:49

5 A I was just sick. At that time, that's all that I 14:41:51
6 knew. I just didn't feel well. 14:41:55

7 Q Did you tell her you were seriously ill? 14:41:56

8 A I didn't know at that time. I just did not feel 14:41:59
9 well. 14:42:02

20 Q What illness or impairment or condition do you 14:42:06
21 have -- did you have that began on April 19th that 14:42:17
22 you contend made you seriously ill? 14:42:20

23 A I went to the doctor, my blood pressure was up, and 14:42:22
24 I was running a low grade temperature and just not 14:42:32
25 feeling very well. And -- and it kept -- it got 14:42:35

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1 worse until Monday I went to the doctor and he just 14:42:44
2 looked at me and assessed me and said I was not 14:42:46
3 well and I needed to stay off of work. 14:42:51
4 Q Was there any other illness you had on or 14:42:53
5 between -- on April 19th or before April 25th that 14:42:59
6 you claim made you seriously ill besides what 14:43:03
7 you've just told me? 14:43:06
8 A No. 14:43:07
9 Q Now you've told me every condition you had during 14:43:07
10 that time span that you claim made you seriously 14:43:13
11 ill? 14:43:15
12 A Yes. 14:43:17
13 Q And you went and saw the doctor, you said, on April 14:43:18
14 22nd to address the condition that you claim made 14:43:22
15 you seriously ill? 14:43:26
16 A Yes. 14:43:27
17 Q And that was -- is it Dr. Holleran? 14:43:27
18 A Holleran. 14:43:29
19 Q Was that the only time you saw a physician relating 14:43:32
20 to that condition? 14:43:35
21 A During that time span, yes. I planned on going 14:43:38
22 back that Thursday. 14:43:41
23 Q Did you go back that Thursday? 14:43:43
24 A No. I was so -- I was too depressed. I went home. 14:43:45
25 Q So when you went and saw the doctor on the 22nd, 14:43:54

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1 what did the doctor tell you about your claimed 14:43:59
2 seriously ill condition? 14:44:02
3 A He told me I was sick and that I had to have some 14:44:04
4 medication and then he put me off work. 14:44:09
5 Q Did he give you a diagnosis of what condition was 14:44:10
6 making you sick? 14:44:13
7 A Sinusitis, severe sinusitis. 14:44:14
8 Q Did the doctor provide -- or prescribe any 14:44:20
9 medication for you? 14:44:24
10 A Yes. 14:44:24
11 Q What medication? 14:44:24
12 A I don't remember. 14:44:26
13 Q Did the provider direct any other treatment for 14:44:27
14 you? 14:44:31
15 A Stay home from work. 14:44:33
16 Q Anything else? 14:44:35
17 A Not at that time. 14:44:37
18 Q And the only direction provided was to stay home 14:44:40
19 between the 22nd and the 24th? 14:44:47
20 A Yes. 14:44:50
21 Q And you followed through and did exactly what the 14:44:50
22 provider directed? 14:44:53
23 A Yes. 14:44:53
24 Q You didn't receive any inpatient care? 14:44:54
25 A No. 14:44:58

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1	Q	You didn't stay overnight in a hospital or any	14:44:59
2		other residential medical care facility?	14:45:02
3	A	No.	14:45:05
4	Q	As a result of the condition that you say you	14:45:05
5		started experiencing on April 19th, did you have	14:45:08
6		any surgery at any point?	14:45:12
7	A	No, not during that time span.	14:45:14
8	Q	Did you see any other health care provider related	14:45:17
9		to that alleged --	14:45:20
10	A	No, not during that time span.	14:45:21
11	Q	I'm going to need to finish my question before you	14:45:22
12		answer to make sure the court reporter can get	14:45:26
13		everything down cleanly in the record.	14:45:27
14		In paragraph 21 of your Complaint you	14:45:31
15		allege that you were unable to work from that	14:45:33
16		Friday evening until the morning of Thursday,	14:45:36
17		April 25th, 2013, the date on which she was	14:45:39
18		terminated. Was that due to the same condition	14:45:41
19		that you already told me about?	14:45:44
20	A	Yes.	14:45:45
21	Q	And nothing else but that?	14:45:46
22	A	Not diagnosed at that time.	14:45:50
23	Q	And you were only unable to work because the doctor	14:45:53
24		had taken -- restricted you from working?	14:45:55
25	A	I couldn't work. I was sick.	14:45:59

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1 Q Right, because the doctor had -- and the doctor had 14:46:01
2 restricted you from working, correct? 14:46:04

3 A Right. 14:46:05

4 Q In paragraph 22 you claim that on April 22nd, 2013, 14:46:06
5 Fiely informed Defendants that she was still sick 14:46:12
6 from the previous Friday and saw her physician who 14:46:15
7 prescribed her medication and certified her to be 14:46:18
8 off from work until Thursday, April 25th, 2013. 14:46:20

9 We spoke about a conversation you had on 14:46:24
10 that Monday, the 22nd, previously during this 14:46:27
11 deposition. 14:46:31

12 A Yes. 14:46:31

13 Q Is that the conversation you're referring to in 14:46:32
14 this paragraph? 14:46:34

15 A Yes. 14:46:43

16 Q Who did you inform of this, can you recall? 14:46:44

17 A Bob. 14:46:46

18 Q On April 22nd? 14:46:48

19 A Yeah. Yeah, that Monday, yes, he called me and I 14:46:51
20 said I was still sick. 14:47:00

21 Q Previously during our discussion you also said you 14:47:02
22 called into the facility and said you were sick, 14:47:06
23 correct? 14:47:10

24 A Correct. 14:47:11

25 Q Do you recall who you spoke with? 14:47:11

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1 A I'm going to guess -- I'm going to say business 14:47:17
2 office, Chris or -- because that's who I call, 14:47:20
3 that's who usually picks up the number. 14:47:28
4 Q And what did you tell that person to the extent 14:47:32
5 it's outside or in addition to what's included in 14:47:37
6 paragraph 22? 14:47:40
7 A I told them that I was sick and that I had seen the 14:47:42
8 doctor and I'm off work until Thursday. 14:48:00
9 Q Nothing else? 14:48:03
10 A I don't remember telling them anything else. 14:48:11
11 Q Have you now told me about everything you provided 14:48:14
12 or told St. Mary's with regard to proof of your 14:48:17
13 illness and your inability to work? 14:48:20
14 A Have I not told you what? 14:48:27
15 Q Is there anything else you haven't already told me 14:48:29
16 about related to the time you gave St. Mary's proof 14:48:32
17 of your illness or your inability to work? 14:48:36
18 A Well, I called in -- no. 14:48:41
19 Q And have you already told me about every time you 14:48:45
20 told anyone at St. Mary's of that claimed illness 14:48:50
21 that was preventing you from working? 14:48:54
22 A Yes. 14:49:07
23 Q In paragraph -- if you'd turn to Page 5 now. In 14:49:09
24 paragraph 25 you allege that St. Mary's interfered 14:49:14
25 with, restrained, or denied you the exercise of 14:49:18

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1 rights provided under the FMLA. 14:49:20

2 Tell me all the ways in which St. Mary's 14:49:23

3 interfered with, restrained, or denied you the 14:49:27

4 exercise of rights provided under the FMLA. 14:49:30

5 MR. FRANKLIN: Objection to the 14:49:30

6 extent it calls for a legal conclusion. 14:49:31

7 You can answer. 14:49:34

8 A I was never offered FMLA. 14:49:38

9 Q Anything else? 14:49:41

10 A I was discharged prior to being able to ask for it. 14:49:45

11 Q Anything else? 14:49:48

12 A No. 14:50:02

13 Q You spoke with Bob Huenefeld before your 14:50:03

14 termination, correct? 14:50:06

15 A Right. 14:50:07

16 Q And you never asked him about FMLA leave, did you? 14:50:09

17 A I didn't know how serious this illness was 'til I 14:50:14

18 went to the doctor and he told me I had to be off 14:50:18

19 three days. And when three days was over, I was 14:50:21

20 still not feeling well and I intended that day to 14:50:23

21 go in and talk -- I had this going on and I went to 14:50:26

22 talk to Lorraine and I was going to go home and go 14:50:31

23 back to the doctor. 14:50:34

24 Q You said you weren't given an opportunity to 14:50:36

25 request FMLA leave. 14:50:40

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1 A Right. 14:50:40

2 Q And my point is, you spoke with someone who has a 14:50:41

3 responsibility for administering the company's FMLA 14:50:43

4 program, correct? 14:50:48

5 A When? 14:50:49

6 Q From the HR department. You spoke with 14:50:49

7 Mr. Huenefeld. 14:50:52

8 A On Monday. 14:50:52

9 Q So you claim you spoke with Mr. Huenefeld before 14:50:54

10 you went to the doctor? 14:50:57

11 A I don't remember the time span. 14:51:09

12 Q So it's entirely possible you could have spoken 14:51:12

13 with Mr. Huenefeld after you visited the doctor? 14:51:14

14 A I'm not sure. 14:51:30

15 Q Have you now told me all the ways in which you 14:51:32

16 believe that St. Mary's interfered with, 14:51:37

17 restrained, or denied you the exercise of rights 14:51:38

18 provided by the FMLA? 14:51:44

19 MR. FRANKLIN: Same objection. Go 14:51:44

20 ahead and answer. 14:51:46

21 A Repeat the question. 14:51:46

22 Q Have you now told me all the ways in which you 14:51:48

23 claim St. Mary's interfered with, restrained, or 14:51:52

24 denied you the exercise of rights under the FMLA? 14:51:55

25 A Yes. 14:51:58

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1 Q In paragraph 25 you also claim that St. Mary's 14:51:58
2 retaliated against you by discharging you for 14:52:04
3 asserting or otherwise exercising your rights under 14:52:06
4 the FMLA, correct? 14:52:10

5 A Yes. 14:52:21

6 Q Tell us all the ways you claim you asserted or 14:52:21
7 otherwise exercised your rights under the FMLA. 14:52:26

8 MR. FRANKLIN: Objection to the 14:52:31
9 extent it calls for a legal conclusion. 14:52:32

10 You can answer. 14:52:34

11 A As previously said, I was not given the chance to 14:52:37
12 ask for FMLA, I was not offered FMLA, I was 14:52:42
13 discharged prior to being able to ask for it. 14:52:50

14 Q Is there any other way in which you claim you 14:52:52
15 asserted or exercised your rights under the FMLA? 14:52:55

16 A No. 14:52:59

17 Q Now, given the fact that you weren't given an -- 14:52:59
18 you don't believe you were given an opportunity to 14:53:08
19 request it or you didn't have a chance to request 14:53:10
20 it, tell me all the ways -- or tell me how you 14:53:12
21 claim that St. Mary's could have then retaliated 14:53:16
22 against you for that if you didn't do anything? 14:53:19

23 A Being sick that long, it should -- I should have 14:53:24
24 been offered it. 14:53:29

25 Q So how does that relate to St. Mary's desire to 14:53:34

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1 retaliate against you if you never raised any issue 14:53:41
2 under the FMLA? 14:53:46
3 A Because I didn't have the opportunity to ask for 14:53:48
4 it. 14:53:51
5 Q So you never asked for it. My question again is 14:53:52
6 how could St. Mary's have retaliated against you if 14:53:55
7 you never did anything to ask for it? 14:53:59
8 A Because they discharged me prior to being able to 14:54:01
9 ask for it. 14:54:03
10 Q Okay. So is there any other way in which you claim 14:54:03
11 St. Mary's retaliated against you for asserting or 14:54:06
12 otherwise exercising your rights under the FMLA? 14:54:09
13 MR. FRANKLIN: 14:54:15
14 Don't pay attention 14:54:17
15 A Again, I wasn't able to even ask for it because I 14:54:35
16 was discharged prior to being able to ask for it. 14:54:38
17 Q Okay. Is there any other way -- no, I'll withdraw 14:54:41
18 that. Have you told me all the ways in which you 14:54:44
19 believe St. Mary's retaliated against you for 14:54:47
20 asserting or otherwise exercising your rights under 14:54:49
21 the FMLA? 14:54:53
22 A When I called in and said I'm going to be off for 14:54:55
23 three days, they could have asked me if I needed 14:55:02
24 FMLA. 14:55:05
25 Q Is there anything else? 14:55:06

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1 A No. 14:55:07

2 Q You testified previously you supervised 14:55:08

3 approximately 30 employees, correct? 14:55:11

4 A Correct. 14:55:13

5 Q And they called in to you and said they were sick 14:55:13

6 numerous times, correct? 14:55:17

7 A They called to the nurse's station or me or the 14:55:18

8 business office. 14:55:20

9 Q And you spoke with them at times when they called 14:55:21

10 off -- 14:55:24

11 A At times. 14:55:25

12 Q -- and said they were sick, correct? 14:55:26

13 A Correct. 14:55:26

14 Q Did you offer those employees FMLA leave each time 14:55:27

15 they called in to you and said they were sick? 14:55:31

16 A They were only calling in for a day at a time. 14:55:33

17 Q If an employee said she would be gone for three 14:55:37

18 days, did you every time offer that employee FMLA 14:55:40

19 leave? 14:55:43

20 A It didn't happen. 14:55:43

21 Q An employee never called in and spoke with you and 14:55:44

22 said he or she would be absent for three days due 14:55:47

23 to illness? 14:55:49

24 A Didn't call me and tell me that, no. 14:55:49

25 Q If that employee would have, what would you have 14:55:51

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1 said? 14:55:51

2 A They usually -- 14:55:54

3 MR. FRANKLIN: Objection. Go ahead 14:55:54

4 and answer if you can. 14:55:56

5 A They talk to the business office when they are 14:55:57

6 going to be sick longer than that. 14:56:00

7 Q So if an employee called you and said I'm sick, I'm 14:56:06

8 going to be absent for three days, you would not 14:56:13

9 have offered that employee FMLA leave? 14:56:18

10 MR. FRANKLIN: Objection; 14:56:21

11 foundation, hypothetical. Answer the 14:56:22

12 question. 14:56:25

13 A They talked to the business office about FMLA. 14:56:27

14 Q But you would not have offered that employee FMLA 14:56:32

15 leave? 14:56:35

16 A It wasn't under my job duties. 14:56:35

17 Q Okay. Now paragraph 27 in your Complaint on 14:56:43

18 Page 6, in that paragraph, paragraph 27, you allege 14:56:58

19 that St. Mary's discriminated against you based on 14:57:03

20 your age by terminating your employment for which 14:57:06

21 you were qualified. 14:57:09

22 Have you already told me all the ways in 14:57:13

23 which you claim St. Mary's discriminated against 14:57:15

24 you because of your age? 14:57:18

25 A Yes. 14:57:19

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1 Q Are there any others we haven't covered yet today? 14:57:19
2 A No. Not that I can -- 14:57:25
3 Q Have you told me everything that makes you think 14:57:30
4 St. Mary's intended to discriminate against you on 14:57:32
5 the basis of your age? 14:57:36
6 A Yes. 14:57:37
7 Q Who do you claim discriminated against you based on 14:57:38
8 your age? 14:57:48
9 A Lorraine. 14:57:48
10 Q Anyone else? 14:57:49
11 A Basically Lorraine Fischio. 14:57:54
12 Q Have you already covered with me today the reasons 14:57:58
13 why you believe Ms. Fischio discriminated against 14:58:02
14 you on the basis of your age? 14:58:05
15 A Yes. 14:58:08
16 Q Who do you claim retaliated against you? 14:58:09
17 A Lorraine. 14:58:14
18 Q Have you already covered here today all the reasons 14:58:16
19 you believe Ms. Fischio retaliated against you? 14:58:19
20 A Yes. 14:58:23
21 Q Do you believe anyone at St. Mary's or affiliated 14:58:24
22 with St. Mary's other than Ms. Fischio 14:58:27
23 discriminated or retaliated against you? 14:58:30
24 A Barry. 14:58:33
25 Q In what way? 14:58:34

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1 A By terminating me. 14:58:35

2 Q What facts show that he did so in a discriminatory 14:58:54

3 or retaliatory manner? 14:58:59

4 A That he basically -- that he sided with Lorraine. 14:59:03

5 Q Is there anyone you believe was treated differently 14:59:24

6 or more favorable than you? 14:59:31

7 A Yes. 14:59:34

8 Q Who? 14:59:35

9 A Activities Director, business office people. 14:59:35

10 Q What's the Activities Director's name? 14:59:44

11 A Margie Luedke. 14:59:48

12 Q Pardon me? 14:59:50

13 A Margie Luedke. 14:59:50

14 Q Can you spell her last name? 14:59:52

15 A L-u-e-d -- I have to write it out. 14:59:54

16 MR. FRANKLIN: Here. Do you mind? 15:00:01

17 MR. GARRISON: No, no. Go ahead. 15:00:03

18 A L-u-e-d-e-k-e. 15:00:05

19 Q When you say business office people, who 15:00:11

20 specifically in the business office? 15:00:13

21 A Claudette. 15:00:15

22 Q What's Claudette's last name? 15:00:23

23 A Well, it was Minnich. 15:00:24

24 Q Anyone else? 15:00:28

25 A No. 15:00:30

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1 Q How do you believe Margie Luedeke was treated 15:00:31
2 differently or more favorably than you? 15:00:35
3 A Because she could do anything. She would -- and 15:00:37
4 she would never get spoke to about that to my 15:00:41
5 knowledge. I would go to Lorraine about different 15:00:46
6 things. She would go down the hallway and turn 15:00:48
7 everybody's lights on, all the residents, and 15:00:53
8 expect the aides to get them up and bring them to 15:00:58
9 activities. She was not a certified nursing 15:00:59
10 assistant so she wasn't able to assist them. 15:01:02
11 Q So you wouldn't -- you said she could do anything. 15:01:05
12 What things did she do for which -- 15:01:08
13 A She would take the people on trips without proper 15:01:09
14 care. She was not able -- she was not an aide, she 15:01:13
15 could not take them to the bathroom. 15:01:16
16 Q Anything else? 15:01:22
17 A She was very loud. 15:01:22
18 Q Loud, what do you mean she was loud? 15:01:27
19 A Her voice was very loud. 15:01:29
20 Q Just in general, the way she spoke? 15:01:35
21 A Uh-huh. 15:01:37
22 Q Anything else? 15:01:39
23 A Well, I suggested to Lorraine that she get her 15:01:48
24 certification, but Lorraine said she didn't need 15:01:51
25 it. So that's all I know. 15:01:55

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1 Q Why do you believe she was treated more favorably 15:01:57
2 than you? 15:02:01
3 A Just what I told you. 15:02:02
4 Q Well, that's how. But why? 15:02:03
5 A I don't know. 15:02:05
6 Q Do you know whether she was ever disciplined or any 15:02:08
7 action taken against her for any misconduct she may 15:02:11
8 have engaged in? 15:02:15
9 A I have no idea. 15:02:16
10 Q How about Claudette Minnich, how was she treated 15:02:16
11 differently or more favorably than you? 15:02:20
12 A Lorraine would give her extra money out of her 15:02:22
13 bonus money. 15:02:26
14 Q How else? 15:02:30
15 A She would buy her gifts. 15:02:32
16 Q How else? 15:02:42
17 A Just treated her differently. 15:02:53
18 Q Why do you believe she was treated differently or 15:02:56
19 more favorably than you? 15:02:59
20 A I don't know. 15:03:01
21 Q Other than what we've talked about, Ms. Fiely, is 15:03:05
22 there anything else you believe St. Mary's did 15:03:08
23 wrong to you? 15:03:10
24 A No. 15:03:11
25 Q We've got a number of allegations that you 15:03:18

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1 communicate in your Complaint. How have you been 15:03:21
2 harmed by the actions you list in your Complaint? 15:03:23
3 A Harmed financially, by the pension benefits, the 15:03:26
4 insurance benefits, loss of bonuses. 15:03:43
5 Q Any other way? 15:03:55
6 A Lost wages. 15:03:58
7 Q Any other way? 15:04:04
8 A Future earnings. 15:04:06
9 Q Were you unable to work at any period of time 15:04:15
10 following the end of your employment at St. Mary's? 15:04:18
11 A Yes. 15:04:21
12 Q When? 15:04:21
13 A May 3rd when I had a heart attack, one week after I 15:04:22
14 was terminated. 15:04:27
15 Q Until when? 15:04:28
16 A For two weeks. 15:04:30
17 Q Maybe until May 17th? 15:04:33
18 A Yes. 15:04:36
19 Q Has what we've talked about today related to your 15:04:37
20 employment at St. Mary's caused you any emotional 15:04:42
21 problems? 15:04:45
22 A Please repeat that. 15:04:47
23 Q We've discussed a lot of things about your 15:04:48
24 employment at St. Mary's. 15:04:51
25 A Yes. 15:04:51

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1 Q Have -- has any of those things caused you any 15:04:52
2 emotional problems? 15:04:56
3 A Some, yes. 15:04:58
4 Q What? 15:05:00
5 A Loss, feel loss. I feel -- I think I had it 15:05:01
6 written down. I felt belittled. 15:05:59
7 Q Any other way? 15:06:05
8 A I felt like I -- my reputation was ruined in a 15:06:06
9 small rural area, lost self-esteem. 15:06:14
10 Q Anything else? 15:06:35
11 A Loss as a provider for my family. 15:06:54
12 Q Anything else? 15:07:00
13 A There's a lot more, I just can't think of them. 15:07:02
14 Q Have you sought counseling for any of those issues? 15:07:05
15 A No. 15:07:08
16 Q Have you taken any medication to address any of 15:07:09
17 those issues? 15:07:11
18 A No. 15:07:12
19 Q Have you told any of your medical providers that 15:07:12
20 you felt any physical or mental stress caused by 15:07:16
21 events at work? 15:07:21
22 A Dr. Holleran. 15:07:23
23 Q Pardon me? 15:07:25
24 A Dr. Holleran. 15:07:26
25 Q When did you tell him that? 15:07:28

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1 A Oh, probably after my heart attack when I had to go 15:07:29
2 see him. 15:07:36

3 Q Have you ever been treated by any physician or 15:07:40
4 counselor for similar issues to the ones you just 15:07:43
5 mentioned that were not connected to your 15:07:47
6 employment at St. Mary's? 15:07:50

7 A As? 15:07:51

8 Q Such as self-esteem. 15:07:52

9 A No. 15:07:54

10 Q You've never seen any other provider for those 15:07:54
11 issues -- 15:07:58

12 A No. 15:07:58

13 Q -- that have not been connected to St. Mary's? Did 15:07:58
14 you ever receive a specific diagnosis for any type 15:08:05
15 of emotional distress? 15:08:07

16 A No. 15:08:08

17 Q I think you've referenced this, but I want to make 15:08:09
18 sure the record is clear, how long do you claim you 15:08:15
19 would have continued working at St. Mary's had your 15:08:19
20 employment not ended in 2013? 15:08:22

21 A 'Til February of 2015. 15:08:23

22 Q Has anything about your employment or separation 15:08:28
23 from employment at St. Mary's impacted your ability 15:08:30
24 to get and keep other employment? 15:08:33

25 A Please go over that again. 15:08:38

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1 Q Has anything about your employment or the ending of 15:08:39
2 your employment at St. Mary's affected your ability 15:08:44
3 to secure and maintain other employment? 15:08:46
4 A No. 15:08:50
5 (Defendants' Exhibit HH marked.) 15:09:40
6 Q I've given you what's been marked as Defendants' 15:09:40
7 Exhibit HH. This is a long document. I'd ask -- 15:09:44
8 I'd represent to you that it's the Interrogatory 15:09:47
9 answers that your Counsel filed in this case. Do 15:09:49
10 you recognize it? 15:09:52
11 I'll withdraw that question. Will you 15:10:23
12 please turn to Page 10. At the bottom paragraph 15:10:25
13 you see Plaintiff states that she was treated by 15:10:37
14 Dr. Neal Holleran in April 2013 for severe 15:10:40
15 sinusitis. That's the issue that we talked about 15:10:42
16 that you saw Dr. Holleran for on April 22nd? 15:10:44
17 A Yes. 15:10:48
18 Q Did you visit him at any other time after that for 15:10:48
19 that sinusitis? 15:10:51
20 A No. 15:10:53
21 Q And it said you were treated by Jacob B. Gibson in 15:10:53
22 May of 2013 for cardiac issues? 15:10:59
23 A Right. 15:11:02
24 Q Was that the heart attack that you experienced -- 15:11:03
25 A Yes. 15:11:06

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1 Q -- on May the 3rd? Did you see Dr. Gibson for any 15:11:07
2 other condition? 15:11:12
3 A No. 15:11:14
4 Q Did you see Dr. Holleran for any other condition 15:11:14
5 during your employment at St. Mary's? 15:11:18
6 A In that time span? 15:11:21
7 Q At any time. 15:11:24
8 A Yes. 15:11:26
9 Q What? 15:11:29
10 A I thought I broke my arm, my knee. 15:11:29
11 Q When was that? 15:11:32
12 A I don't know the dates. 15:11:37
13 Q Anything else? 15:11:39
14 A Bronchitis. I cannot give you all the -- my whole 15:11:48
15 history. 15:11:53
16 Q When did you see him for bronchitis? 15:11:54
17 A I don't remember. 15:11:57
18 Q You claim you saw him for other things but you 15:11:58
19 can't recall here today? 15:12:00
20 A Yes. Eight years or whatever, yeah. 15:12:03
21 Q I'd ask you to turn back to Page 2 of this 15:12:18
22 document. The first paragraph at the top of that 15:12:30
23 page, it says Lisa Inskeep, Social Service Director 15:12:33
24 for St. Mary's Living Center, may have information 15:12:37
25 regarding Plaintiff's employment, termination, 15:12:37

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1	allegations contained in her Complaint and/or	15:12:40
2	defenses of the Defendants. What information	15:12:43
3	specifically does Lisa Inskeep have?	15:12:45
4	A She was my coworker prior to coming to St. Mary's	15:12:53
5	so I knew her quite well. I did talk to her about	15:13:01
6	Lorraine's comments as far as retirement.	15:13:10
7	Q You said previously you told her that Lorraine	15:13:29
8	offered you a retirement package?	15:13:33
9	A Right.	15:13:35
10	Q Did you tell her anything else?	15:13:36
11	A No, I really didn't tell her that much.	15:13:38
12	Q You say she has -- may have information regarding	15:13:45
13	your termination. What information may she have	15:13:48
14	relating to your termination?	15:13:50
15	A She just -- she's the one that cleaned out my	15:14:02
16	office for me and we met and she brought me my	15:14:06
17	stuff, my personal belongings.	15:14:09
18	Q You don't claim that she had any involvement in --	15:14:11
19	A No.	15:14:14
20	MR. FRANKLIN: Let him finish, okay?	15:14:16
21	He finishes his question; you finish your	15:14:18
22	answer.	15:14:21
23	Q What knowledge may she have regarding the	15:14:22
24	allegations in your Complaint or the defenses of	15:14:25
25	the Defendants?	15:14:28

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1 A I spoke to her about my feeling that I was being 15:14:50
2 age related and that Lorraine wanted me -- had 15:15:22
3 talked to me about retirement. 15:15:28
4 Q Now, you haven't covered before that you made 15:15:31
5 claims to her about something happening to you age 15:15:33
6 related. What did you say to her about that? 15:15:36
7 A About the retirement, that I feel this is age 15:15:39
8 related because she's talking to me about 15:15:43
9 retirement. 15:15:46
10 Q What specifically did you tell her? 15:15:47
11 A I think I just told you. 15:15:49
12 Q Nothing you can recall beyond that? 15:15:52
13 A No. 15:15:55
14 (Defendants' Exhibit II marked.) 15:16:14
15 Q Handing you Defendants' Exhibit II, I will tell you 15:16:14
16 that's a copy of the Rule 26(a)(1) disclosures your 15:16:19
17 Counsel filed in this case. 15:16:25
18 MR. GARRISON: Sorry about that. 15:16:26
19 MR. FRANKLIN: That's okay. 15:16:27
20 Q What information does Jason Reese have that's 15:16:33
21 relevant to your claims in this case? 15:16:36
22 A Well, he is the chief operating officer, he should 15:16:41
23 have all the knowledge of what's going on. 15:17:17
24 Q You claim he should have all the knowledge of 15:17:19
25 what's going on at every building? 15:17:23

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1 A Yes, he should be able to obtain it. 15:17:24
2 Q So that's the extent of the knowledge you claim 15:17:28
3 Mr. Reese has related to this case? 15:17:31
4 A Well, I sent him that letter. I don't know if he 15:17:41
5 got it or not so -- 15:17:44
6 Q Anything else? 15:17:45
7 A No. 15:17:46
8 Q Have we talked about all the information that 15:17:46
9 Ms. -- you claim Ms. Fischio has that's relevant to 15:17:51
10 your claims in this lawsuit? 15:17:54
11 A Yes. 15:17:55
12 Q And have we talked about all the information you 15:17:55
13 believe Mr. Derossett has that's relevant to your 15:17:58
14 claims in this lawsuit? 15:18:02
15 A Yes. 15:18:02
16 Q You list Dr. Jacob Bradley Gibson. He doesn't have 15:18:03
17 any personal knowledge of anything that happened 15:18:09
18 during your employment at St. Mary's, does he? 15:18:11
19 A No. 15:18:14
20 Q Nor does Dr. Neal Holleran; is that correct? 15:18:15
21 A Can you give me a few minutes? He was my family 15:18:25
22 doctor, I may have told him things. 15:18:49
23 Q Does he have any personal knowledge of anything 15:18:51
24 that happened during your employment at St. Mary's? 15:18:53
25 A No. 15:18:55

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1 Q What information do you -- do you claim he has 15:18:57
2 that's relevant to your claims in this lawsuit, 15:19:03
3 Dr. Holleran? 15:19:06
4 A Just what it says, that he has knowledge of my 15:19:19
5 medical condition and allegations. 15:19:21
6 Q Well, what allegations do you claim he has 15:19:27
7 knowledge of? 15:19:30
8 A I'm not sure. 15:20:09
9 Q How about Dr. Gibson, what information do you claim 15:20:11
10 he has that's relevant to your claims in this 15:20:15
11 lawsuit? 15:20:17
12 A Just my medical history. 15:20:21
13 Q And how is that relevant to your claims in this 15:20:23
14 lawsuit? 15:20:28
15 A It is relevant because the week that I was so 15:20:30
16 seriously sick could have re -- was the beginning 15:20:35
17 of what happened on May 3rd, it was only a week 15:20:41
18 later that I had the heart attack. 15:20:44
19 Q Anything else you claim he has information relating 15:20:48
20 to? 15:20:53
21 A No. 15:20:54
22 Q I'd ask you to go back to the thick document, your 15:21:03
23 Interrogatory responses, and turn to the last page. 15:21:07
24 That's your signature, correct? 15:21:21
25 A Yes. 15:21:22

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1 Q And you answered these truthfully? 15:21:24
2 A Did I answer these truthfully? 15:21:31
3 Q Yes. 15:21:33
4 A Yes. 15:21:34
5 Q Have you taken any statements from anyone in 15:21:34
6 connection with your claims in this lawsuit? 15:21:37
7 A Have I taken any statement? 15:21:41
8 Q You or have you arranged for your Counsel to take 15:21:43
9 any statements? 15:21:46
10 MR. FRANKLIN: No, that's not a 15:21:48
11 proper question. You asked her if she -- 15:21:48
12 you can't ask her what I've done. 15:21:50
13 MR. GARRISON: I've asked if she's 15:21:52
14 arranged for you to take any statements. 15:21:53
15 MR. FRANKLIN: Well, first of all, 15:21:56
16 you asked it as a compound question. 15:21:56
17 Q Have you arranged for your Counsel to take any 15:21:58
18 statements in connection with this case? 15:22:00
19 MR. FRANKLIN: Objection. Go ahead 15:22:02
20 and answer if you can. What's the word 15:22:04
21 arranged mean? 15:22:08
22 A I don't know whose statements he would have asked 15:22:24
23 for. 15:22:26
24 Q Have you provided your Counsel with any contact 15:22:26
25 information for witnesses to use to contact to 15:22:28

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1 obtain statements in connection with this case? 15:22:31
2 A No. 15:22:36
3 Q Let's talk now about -- 15:22:37
4 MR. FRANKLIN: Let's go off record 15:22:44
5 for five minutes. Let's take a 15:22:46
6 five-minute break. 15:22:49
7 (Recess taken.) 15:22:57
8 VIDEOGRAPHER: On record. 15:30:11
9 Q All right. Ms. Fiely, let's talk now about your 15:30:13
10 employment after your employment at St. Mary's 15:30:19
11 ended. Your employment there ended on April 25th, 15:30:21
12 2013, correct? 15:30:26
13 A Correct. 15:30:26
14 Q After that time, did you seek other work? 15:30:26
15 A Yes. 15:30:29
16 Q When did you start looking for work? 15:30:29
17 A In May already. 15:30:34
18 Q Did you look for work before you experienced your 15:30:43
19 heart attack? 15:30:46
20 A No. 15:30:48
21 Q No? 15:30:49
22 A That was just a week. 15:30:51
23 Q You made some references in your journal, your 15:30:53
24 DayTimer, about applications or visits to other 15:31:01
25 employers -- 15:31:05

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1 A Yes. 15:31:06

2 Q -- correct? 15:31:07

3 A Correct. 15:31:08

4 Q Did you record all such applications or visits in 15:31:08
5 that document? 15:31:16

6 A I don't think I have them all there. 15:31:17

7 Q Following the end of your employment with 15:31:19
8 St. Mary's, did you receive unemployment comp. 15:31:23
9 benefits? 15:31:26

10 A Yes, for a short time. 15:31:27

11 Q For what period of time? 15:31:29

12 A First two weeks of May I was not able to work so I 15:31:32
13 could not get unemployment. And June 1st I did an 15:31:40
14 interim job so only for about two weeks. 15:31:46

15 Q And where did you apply for work between the time 15:31:53
16 you were released to start working after your heart 15:31:59
17 attack and the time you secured that job? 15:32:03

18 A In May. Like I say, it's all documented in my 15:32:19
19 calendar. June 1st I did an interim position. 15:32:32

20 Q Well, my question was where did you apply for work. 15:33:07

21 A Everywhere on the Internet. 15:33:11

22 Q Well, I understand, but I'm asking you for your 15:33:13
23 testimony about where you applied for work. 15:33:16

24 A Greenville Brethren Home. 15:33:20

25 Q And that was on April the 30th? 15:33:29

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1 A That's what my report says. 15:33:33
2 Q Well, that's what the report says, but did you 15:33:38
3 apply that day? 15:33:41
4 A Yes, that's what my report says, that's when the 15:33:42
5 day I -- it's all on the Internet. 15:33:45
6 Q Okay. Where else? 15:33:48
7 A Trilogy. I had an interview in Dayton on the 9th 15:33:51
8 at Glen Wood, Hickory Creek on the 30th. 15:33:57
9 Q Are these interviews you had or applications you 15:34:13
10 submitted? 15:34:16
11 A Applications I submitted. If it's an interview, I 15:34:19
12 wrote interview. 15:34:23
13 Q Where else? 15:34:32
14 A I didn't need to apply from June to July because I 15:34:36
15 had an interim position. 15:34:42
16 Q So that interim position was at Hickory Creek of 15:34:43
17 Gaston, Indiana? 15:34:47
18 A Yes. 15:34:49
19 Q And what was your position there? 15:34:49
20 A Director of Nursing. 15:34:50
21 Q And you earned \$45 an hour? 15:34:52
22 A Yes. 15:34:54
23 Q What date did you start that job? I'd ask you to 15:34:55
24 look at your Interrogatory answers, which are open 15:35:02
25 in front of you under the document you have right 15:35:07

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1 now. It says you started on June 3rd; is that 15:35:09
2 accurate? 15:35:12
3 A Yes. 15:35:12
4 Q You worked there through July 3rd? 15:35:12
5 A Yes. 15:35:14
6 Q How many hours a week did you work? 15:35:14
7 A 40. 15:35:17
8 Q Why did your employment there end? 15:35:18
9 A I was interim. It means you only come in as an 15:35:20
10 interim DON, that's why you make so much money, 15:35:24
11 until they find a permanent DON. 15:35:27
12 Q So they found a permanent DON to replace you, I 15:35:29
13 take it? 15:35:33
14 A Yes. 15:35:33
15 Q And what did you -- did you look for other jobs 15:35:34
16 during your time as an interim DON? 15:35:36
17 A I don't believe. I have to look at my calendar. I 15:35:50
18 sent applications in the middle of May to Laurels 15:36:05
19 of Shane Hill and in Dayton. 15:36:07
20 Q Any others? 15:36:13
21 A Mercer Health on the 28th, Hickory Creek interview 15:36:20
22 interim DON -- that's June. 15:36:26
23 Q This is all what you did before you started at 15:36:28
24 Hickory Creek, correct? 15:36:32
25 A Yes -- well, some of it. You got to go by -- 15:36:37

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1 Q Did you submit applications or look for other work 15:36:41
2 while you were working at Hickory Creek? 15:36:47
3 A No. 15:36:50
4 Q After your job at Hickory Creek ended, what did you 15:36:50
5 do to look for work? 15:36:53
6 A I went back on the Internet. Koester's Pavilion, 15:36:55
7 Waters of York. 15:36:59
8 Q Any others? 15:37:11
9 A August 3rd I started at Brookside Haven also as an 15:37:15
10 interim. It's in Muncie. 15:37:21
11 Q You were the interim DON at Brook Haven? 15:37:22
12 A Yes. 15:37:24
13 Q And when did you -- your Interrogatory answers say 15:37:25
14 you started there on August 5th; is that accurate? 15:37:31
15 A That's accurate. 15:37:33
16 Q And you stayed there until September the 10th? 15:37:34
17 A Yes. 15:37:38
18 Q That was an interim DON position? 15:37:38
19 A Yes. 15:37:40
20 Q You were paid \$1,250 a week? 15:37:40
21 A Yes. 15:37:44
22 Q Is that accurate? 15:37:45
23 A It sounds accurate. I don't have proof of how much 15:37:50
24 I made with me. 15:37:53
25 Q During either of those jobs, did you express 15:37:54

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1 interest in jobs -- taking the job as a fall-time 15:37:58
2 DON? 15:38:01
3 A Hickory Creek asked me, the administrator, but the 15:38:01
4 people that own Hickory Creek said I lived over an 15:38:06
5 hour away and thought that was too far for a DON to 15:38:10
6 be. 15:38:13
7 Q How about at Brook Haven? 15:38:13
8 A No. 15:38:16
9 Q You didn't express interest in the full-time -- 15:38:16
10 A No. 15:38:16
11 Q -- DON position? Why not? 15:38:19
12 A They had -- I just didn't feel comfortable in that 15:38:21
13 building. 15:38:31
14 Q Why not? 15:38:32
15 A It was not staffed very well. It was privately 15:38:33
16 owned, they had one nurse and two Qs -- in Indiana 15:38:37
17 they use QMAs, they're qualified medical 15:38:45
18 assistants, that can pass medication. The nurse, 15:38:48
19 which I had to fill the position in a lot, had to 15:38:51
20 do all the charting on all 67 residents. I didn't 15:38:55
21 feel that was a very comfortable position to put 15:39:02
22 myself in permanently. 15:39:04
23 Q So did you look for other DON positions while you 15:39:07
24 were at Brook Haven? 15:39:12
25 A After I left there, yes. 15:39:14

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1 Q So you didn't while you were working at Brook 15:39:16
2 Haven? 15:39:19
3 A No. 15:39:19
4 Q After you left, you did? 15:39:19
5 A Yes. 15:39:20
6 Q Where did you look or apply? 15:39:21
7 A I don't have all that information in here. 15:39:38
8 Q I'd ask you to look at the page of September the 15:39:48
9 10th. On that same document, September the 10th, 15:39:51
10 are -- you've got entries for the 11th and 12th, 15:40:21
11 regional meeting, Louisville, Kentucky? 15:40:24
12 A Yes. 15:40:27
13 Q Is that for 2012 or 2013? 15:40:28
14 A 2012. 15:40:31
15 Q So you're recording in this book as early as 15:40:32
16 September of 2012? 15:40:35
17 A This book was divided, yes, in half of the year of 15:40:36
18 one year and another half the second year. 15:40:40
19 Q I understand. I'm trying to understand when you 15:40:43
20 first started recording entries in this book. 15:40:45
21 What did you do after your employment at 15:40:54
22 Brook Haven ended to look for work? 15:40:55
23 A I looked on the Internet and found a job at Chalet 15:41:01
24 Village. 15:41:06
25 Q Did you apply anywhere else before you found that 15:41:07

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1 job? 15:41:10

2 A I did, but I can't tell you where all at. I 15:41:11

3 applied for everything that was something I thought 15:41:17

4 I could do. 15:41:21

5 Q Did you record those places in your DayTimer? 15:41:21

6 A No, I didn't record everything. 15:41:25

7 Q Well, where else did you apply? 15:41:27

8 A At that time, it was called Kindred in Bluffton. 15:41:34

9 Q Indiana? 15:41:40

10 A Yes. I don't have all the records to show you 15:41:41

11 every place I applied. 15:41:44

12 Q Do you recall any others? 15:41:45

13 A I can't recall at this time. 15:41:55

14 Q And you started the job at Chalet Village in Berne, 15:41:58

15 Indiana, on October the 21st of 2013? 15:42:02

16 A Yes. 15:42:07

17 Q And what position was that? 15:42:07

18 A Director of Nursing. 15:42:08

19 Q Not an interim at that time? 15:42:09

20 A No, it was not an interim. 15:42:11

21 Q Did they -- you got paid \$27 an hour? 15:42:12

22 A Yes. 15:42:15

23 Q Did you receive benefits? 15:42:15

24 A No. 15:42:16

25 Q Did anyone there receive benefits? 15:42:17

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1 A No, no benefits. 15:42:20

2 Q Do you still hold that position today? 15:42:20

3 A No. 15:42:22

4 Q When did your employment there end? 15:42:22

5 A First part of July. 15:42:25

6 Q Why did your employment there end? 15:42:30

7 A The drive was too far for the hours I was putting 15:42:32
in. I was also expected to work the floor if 15:42:38
somebody called in and that went on quite 15:42:41
frequently, and it was -- it was just too far for 15:42:45
the hours. 15:42:48

12 Q Did you resign from that job? 15:42:48

13 A Yes. 15:42:50

14 Q During your time at Chalet Village, were you 15:42:51
looking for other jobs? 15:42:53

16 A Yes. 15:42:56

17 Q Where did you apply? 15:42:57

18 A I don't -- there was a nursing at Spring Meade in 15:42:58
Dayton. 15:43:05

20 Q How far is Dayton? 15:43:11

21 A It's another -- over an hour's drive. 15:43:12

22 Q And how far was Berne? 15:43:17

23 A 35 minutes, 40 minutes. 15:43:21

24 Q Did you voluntarily resign that job? 15:43:27

25 A Yes. 15:43:30

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1 Q And what other jobs did you look for while you were 15:43:31
2 working or what other -- I'll withdraw that. What 15:43:33
3 other jobs did you apply for while you were working 15:43:37
4 at Chalet Village? 15:43:39

5 A I was looking. I didn't -- don't remember applying 15:43:45
6 for any while I was there. 15:43:48

7 Q Have you -- do you recall what date your employment 15:43:49
8 there ended? 15:43:52

9 A Not -- no, I don't. 15:44:00

10 Q Was that early July, late July, mid July? 15:44:01

11 A I said -- I already told you early July. 15:44:04

12 Q Early July. Before the 4th of July or after? 15:44:07

13 A Day before. 15:44:23

14 Q July the 3rd? 15:44:25

15 A (Indicating.) 15:44:27

16 Q Did you provide any notice of your intent to resign 15:44:28
17 from that job? 15:44:32

18 A No. 15:44:33

19 Q What have you done to look for employment since you 15:44:39
20 resigned from Chalet Village? 15:44:43

21 A Looked at the whole -- websites in the area and 15:44:46
22 Internet again. 15:44:53

23 Q Have you applied for any jobs? 15:44:53

24 A Yes. 15:44:55

25 Q Where? 15:44:55

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1 A Everywhere, schools, anything, J.C. Penney's. I 15:44:56
2 did get a job at Auglaize Acres as a quality 15:45:03
3 assurance nurse. 15:45:07
4 Q All right. So let's talk -- before we talk about 15:45:08
5 the job you recently obtained, what schools did you 15:45:11
6 apply to? 15:45:14
7 A Coldwater. 15:45:15
8 Q For what position? 15:45:17
9 A Teacher assistance. 15:45:19
10 Q And what other jobs did you apply for? You said 15:45:21
11 J.C. Penney? 15:45:24
12 A J.C. Penney. 15:45:25
13 Q Any others? 15:45:27
14 A A printing -- printing, post printing, Covington, 15:45:31
15 Director of Nursing, Trilogy. That's all I can 15:45:41
16 think of, but it was quite a few. 15:45:52
17 Q And what is the place where you now have obtained 15:45:53
18 employment? 15:45:58
19 A Auglaize Acres. 15:45:58
20 Q Can you say that again? 15:46:00
21 A Auglaize. 15:46:00
22 Q Auglaize Acres. When did you start working there? 15:46:02
23 A August -- a week ago Monday. 15:46:07
24 Q What's your position there? 15:46:15
25 A Quality assurance nurse. 15:46:16

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1 Q And what's your wage rate? 15:46:19
2 A \$20 an hour. 15:46:21
3 Q \$20 an hour? 15:46:22
4 A (Indicating.) 15:46:24
5 Q And are you provided benefits in connection with 15:46:27
6 that job? 15:46:30
7 A No. 15:46:30
8 Q Have you done anything to look for other jobs since 15:46:31
9 you've worked at Auglaize Acres? 15:46:40
10 A Well, I look on the Internet almost daily. I 15:46:48
11 applied to -- I don't think I've applied any this 15:47:01
12 last week. 15:47:06
13 Q Have you applied to any? 15:47:08
14 A Not this last week. 15:47:10
15 Q Because you've been employed there just for a week? 15:47:11
16 A Yes. 15:47:14
17 Q Have you received unemployment compensation at any 15:47:15
18 point in time since you started working at Hickory 15:47:20
19 Creek of Gaston, Indiana? 15:47:28
20 A I called the Unemployment Office and I told them 15:47:30
21 that I had an interim job and they said okay, 15:47:33
22 that's fine, just when you -- when that's done, 15:47:36
23 then you come back to us and we'll provide you 15:47:40
24 again. But again, I had work almost every other 15:47:44
25 month so I did not receive that much unemployment. 15:47:47

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1 Q But did you receive unemployment? 15:47:49
2 A Some. 15:47:51
3 Q Did you receive unemployment compensation for the 15:47:52
4 periods of time between these interim -- 15:47:55
5 A Yes. 15:47:55
6 Q -- DON jobs? 15:47:57
7 A Yes. 15:47:57
8 Q How much did you receive in unemployment 15:47:58
9 compensation? 15:48:00
10 A I do not know off the top of my head. 375 a week. 15:48:01
11 Q Is there anything else you've done to try to find 15:48:10
12 work since you last worked for St. Mary's in April 15:48:18
13 of 2013? 15:48:21
14 A Besides sending out applications and filling out on 15:48:24
15 the Internet? 15:48:31
16 Q That we've talked about already. 15:48:31
17 A There's not much more you can do. 15:48:39
18 Q But there is nothing other than what we've already 15:48:42
19 talked about? 15:48:46
20 A No. 15:48:46
21 Q Were you self-employed for any period -- 15:48:47
22 A No. 15:48:49
23 Q -- after your employment at St. Mary's ended? 15:48:50
24 A No. 15:48:52
25 Q Are there any other ways you've supported yourself 15:48:53

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1 since your separation from St. Mary's that you 15:48:59
2 haven't already told me about? 15:49:01
3 A No. 15:49:03
4 Q Since your job at St. Mary's ended, have any 15:49:08
5 prospective employers asked about the circumstances 15:49:11
6 surrounding the termination of your employment from 15:49:14
7 St. Mary's? 15:49:17
8 A Yes. 15:49:17
9 Q Who? 15:49:18
10 A Rhonda, the regional nurse at Chalet. 15:49:18
11 Q What did you tell her? 15:49:28
12 A I told her the truth. I told her that I was 15:49:31
13 terminated. 15:49:34
14 Q What did you tell her about why you were 15:49:36
15 terminated? 15:49:39
16 A I explained to her and she told me she couldn't 15:49:40
17 hardly believe that could have happened. 15:49:43
18 Q What did you tell her? 15:49:43
19 A That I was accused of hitting an aide. 15:49:44
20 Q Did you tell anyone else? 15:49:50
21 A Nobody else asked why I quit the other place -- why 15:49:55
22 I left. 15:50:00
23 Q And when you say at Chalet, that's the Chalet 15:50:09
24 Village where you were ultimately employed for a 15:50:14
25 period of time? 15:50:17

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1 A Right. 15:50:17
2 Q Are there any other facts that we haven't talked 15:50:18
3 about already today that you claim support the 15:50:25
4 allegations you've made in this lawsuit? 15:50:27
5 A No. 15:50:31
6 Q Are there any questions I've asked you that you 15:50:33
7 failed to understand and I need to clarify? 15:50:36
8 A No. 15:50:41
9 Q Have your answers to my questions today been 15:50:43
10 truthful? 15:50:45
11 A Yes. 15:50:46
12 Q Have your answers to my questions been complete? 15:50:46
13 A Yes. 15:50:51
14 Q Are there any you wish to change? 15:50:52
15 A No. 15:50:54
16 MR. GARRISON: I have no further 15:50:57
17 questions. 15:50:57
18 MR. FRANKLIN: We'll reserve. 15:50:59
19 VIDEOGRAPHER: Off record. 15:51:06
20 (Deposition concluded at 3:51 p.m.)
21
22 JANE E. FIELY
23 - - -
24
25

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C E R T I F I C A T E

STATE OF OHIO)
) SS.
COUNTY OF LUCAS)

4 I, Linda J. Billau, RPR, Notary Public in and
5 for the State of Ohio, duly commissioned and qualified,
6 do hereby certify that JANE E. FIELY was first duly
7 sworn; that the testimony given was reduced to
8 stenotype; that the foregoing is a true and correct
9 transcript of the testimony given; that this deposition
10 was taken at the time and place in the foregoing
11 caption specified.

I do further certify that I am not a relative,
employee, or attorney of any of the parties or counsel
employed by the parties hereto or financially
interested in this action, nor am I or the court
reporting firm with which I am affiliated under a
contract as defined in Civil Rule 28(D).

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand and affixed my notarial seal of office at Toledo,
20 Ohio, this 27th day of August, 2014.

LINDA J. BILLAU
Notary Public in and for the
State of Ohio

My Commission expires October 28, 2018.